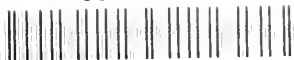
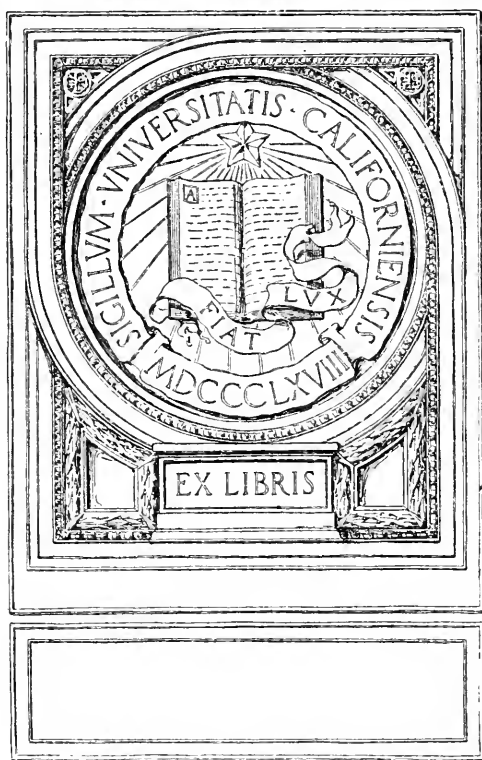


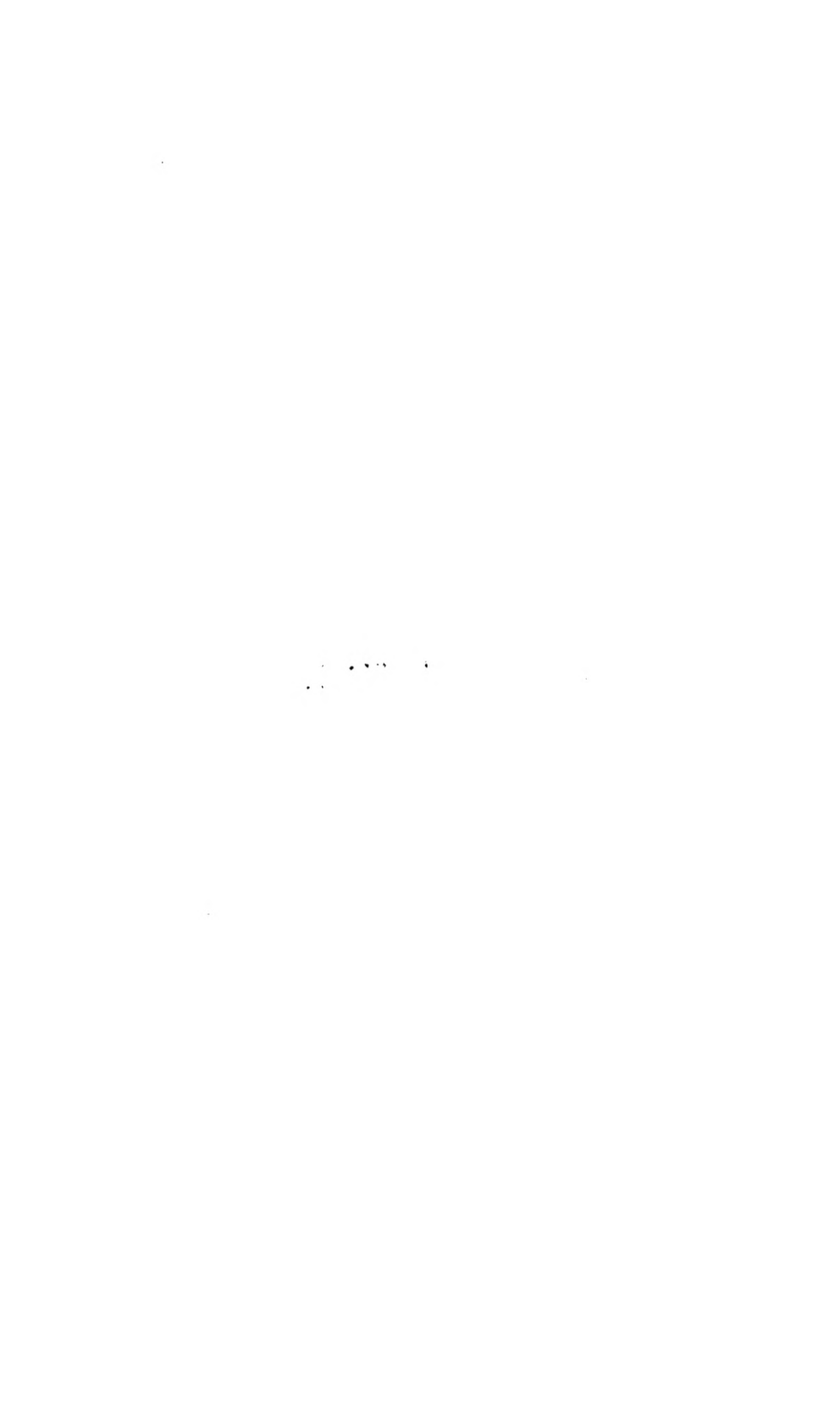
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EXCHANGE









Commonwealth of Pennsylvania

THE COMMISSION ON  
**Constitutional Amendment and Revision**

REPORT  
OF THE  
COMMISSION  
TO THE  
GENERAL ASSEMBLY

DECEMBER 15, 1920

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PART I.

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INTRODUCTORY SUMMARY.

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# REPORT OF THE COMMISSION ON CONSTITUTIONAL AMENDMENT AND REVISION

TO THE GENERAL ASSEMBLY OF THE  
COMMONWEALTH OF PENNSYLVANIA

To the Members of the Senate and House of Representatives:

Your Commission was appointed by the governor on November 22, 1919, under the act of June 4, 1919, P. L. 388. The second section of the act states our duties as follows:

"It shall be the duty of the Commission on Constitutional Amendment and Revision to study comprehensively and in detail the provisions of the present constitution in the light of modern thought and conditions with especial view of the necessity or advisability of changing or omitting any such provisions, in order to obtain and secure for the people of this commonwealth a form of government best suited to their needs and most conducive to their welfare. If the commission find a change in the constitution advisable, it shall determine the best means of effecting such change, whether by amendment of particular sections or articles or by general revision.

"The commission shall report to the general assembly at its next session of one thousand nine hundred and twenty-one, not later than the first Monday of February. The report shall contain in detail such recommendations as to the continuance, discontinuance, or modification of existing provisions, or the adoption of new provisions, as the commission, from its investigations and study, shall deem advisable and proper. The report shall further contain drafts of any proposed amendments, or may contain the draft of a general revision."

## PART I.

### INTRODUCTORY SUMMARY.

The first meeting of the Commission was held on December 9, 1919. This and all subsequent meetings have been public, and, with the exception of one meeting at Scranton, have been held in the Senate Chamber at Harrisburg.

In April, a series of public hearings was held at which any citizen of the commonwealth who desired was given an opportunity to make suggestions. The suggestions thus received were most helpful.

The draft of a revised constitution which appears as Part II of this report was prepared after a comprehensive study of the present constitution "in the light of modern thought and conditions." This

draft embodies those changes in the present constitution which we believe will "obtain and secure for the people of this commonwealth a form of government best suited to their needs and most conducive to their welfare."

No changes are recommended with respect to the general form of our state government. The division of powers among the executive, legislative and judicial branches is, in our opinion, wise and necessary. Although great changes in thought and conditions have taken place since the last constitutional convention, they do not make necessary new experiments in the machinery of law-making or lessen the value of representative government.

We find no necessity for any change in the Bill of Rights. To-day, as throughout our history as a state, it expresses the fundamental principles upon which rest the right of the citizen to the protection of his person and property. Study and reflection convince us that no alteration should be made either in substance or in form and therefore Article I of the constitution as proposed is identical with Article I of the present constitution.

The remaining articles in the draft submitted propose in effect, one hundred and thirty-two changes of substance in the present constitution. A considerable number of important changes are suggested in the provisions set forth in the articles on The General Assembly, Legislation, The Executive, The Judiciary, Suffrage and Elections, and Taxation and Finance. The changes of substance in the other articles are so numerous that it has been necessary to rearrange and re-write them. In the draft submitted all the provisions of Article XII, Social Welfare, are new; and those of Article XI, Education, are also new with the exception of the provisions of one section. Article XIII contains the scattered provisions of the present constitution in respect to municipalities, with several changes and with a number of new provisions of great importance.

Great care has been taken to express the provisions of the constitution as proposed in clear and simple English. Inaccurate language inevitably gives rise to doubt and litigation. It is of the greatest importance, therefore, that each section of the constitution should be so expressed as to put its meaning beyond the possibility of dispute. To this end, care has been exercised throughout the proposed constitution to use words and phrases uniformly. As a result, an idea is always expressed by the same word or phrase, and a word or phrase always expresses the same idea.

Pains have been taken to avoid the use of unnecessary words. The proposed constitution is shorter than the present constitution, although it contains many new provisions.

In a number of cases where the provisions of the present constitution have been adopted, "clarifying changes" have been made in order to resolve ambiguities. In such cases the meaning of existing provisions has been interpreted in the light of judicial decisions, or, in the absence of such decisions, in accordance with what we judge to be the correct interpretation.

In Part II, in the notes to the constitution as proposed, will be found cross-references to the corresponding sections of the present and prior constitutions of the commonwealth.

In Exhibit A will be found an explanation of the exact sense in which certain technical words, such as "officer," "commonwealth," and "state" are used.

In Exhibit B will be found, in parallel columns, the text of the constitution as proposed and the text of the corresponding provisions of the present constitution.

In Exhibit C will be found the text of the constitution as proposed, with a note to each section giving the text of the corresponding provisions of the present constitution and explaining the changes of substance and clarifying changes embodied in the new section.

Exhibit D contains the text of the present constitution with cross-references to the corresponding provisions of the constitution as proposed.

Exhibit E is an index to the proposed constitution.

The published records of the Commission include a full stenographic report of all meetings, the reports of committees and the memoranda and briefs submitted by the secretary containing information pertinent to the subjects considered. In order that all the information which has been gathered on constitutional amendment and revision may be accessible in convenient form, we have directed our secretary to prepare a synopsis of the material collected and of the suggestions made.

#### BRIEF STATEMENT OF PRINCIPAL CHANGES RECOMMENDED.

A brief statement of the principal substantive changes recommended will suggest the extent to which we believe that it is necessary to revise the present constitution.

##### Organization of State Government.

We have found occasion for substantive changes in the articles dealing with the organization of the state government.

##### *Judicial Organization.*

Thus, in the article on The Judiciary, the draft submitted suggests a number of important changes:

##### *Superior Court.*

The superior court is established as a constitutional court with jurisdiction as prescribed by law.

##### *Philadelphia Common Pleas.*

The several numbered courts of common pleas in the county of Philadelphia are combined in a single court thus conforming with the system which now prevails in the other counties.

##### *Associate Judges.*

The office of associate judge, not learned in the law, which now exists in many of the counties, is abolished.

*Justices of Peace.*

A total change is made in the method of selecting and removing justices of the peace so that every county will be divided into districts, each district having a single justice who will be paid a salary only for judicial services and will be subject to removal by the court of common pleas for cause shown.

*Philadelphia Magistrates.*

In Philadelphia, the system of magistrates is abolished and there is substituted a system of justices of the peace learned in the law somewhat similar to that suggested for the other counties, subject, however, to changes as prescribed by law.

*Pleading and Practice.*

The duty of regulating pleading and practice in courts of record is imposed upon the supreme court as the body best fitted to deal with these problems.

*Duties of Judges.*

The provision of the present constitution which forbids the imposition of non-judicial duties upon the justices of the supreme court is extended to the judges of all courts, excepting, however, the supervision of elections and certain powers of appointment which, it is submitted, may be properly entrusted to the judiciary.

*Executive Appointments.*

In the article on The Executive it is recommended that the governor should appoint the secretary of internal affairs; that, so far as practicable, the governor should be forbidden to fill vacancies without the consent of the senate: and that the "civil service system" should be extended to employes of the state government.

**Powers and Duties of State Government.**

Other and more numerous changes are suggested in the provisions dealing with the powers and duties of the state government.

*Budget and Charitable Appropriations.*

Modern conceptions of efficiency in the conduct of government, and the necessity for the expenditure of large sums of money annually in the support of institutions for the care of the sick, the defective and the insane have led us to recommend the establishment of a complete budget system for the state government and of an entirely new method of appropriating money to charities.

*Pensions.*

We recommend the expansion of the powers of the state government so that it can pay pensions not only for military



services but to any class of retired servants of the state government and to school teachers.

#### *State Highways.*

The increased necessity for the construction of public highways is recognized by a provision permitting the state government to borrow one hundred and fifty million dollars for that purpose.

#### *State Forests.*

The obligation to conserve and develop the natural resources of the state is recognized and its discharge is made possible by a provision permitting the state government to borrow twenty-five million dollars for forest purposes.

#### *State Debt.*

A debt created for either of these purposes must have the consent of two-thirds of each house of the general assembly and of the electors of the commonwealth voting on the question.

#### *Amortization of State Debt.*

Provision is made for the amortization of such loans by the issue of serial bonds.

#### *Printing and Supplies.*

The restrictions in the present constitution prohibiting the state government from doing its own printing and from providing supplies necessary for the capitol buildings are removed, and the provisions affecting contracts for printing and supplies are revised.

### **Taxation.**

The principal changes in the constitution as proposed affecting taxation are the recognition of the right of the state government, in levying an income or inheritance tax, to exempt incomes and estates below a minimum specified in the tax law, of the right to levy a special tax on anthracite coal, and of the right to appropriate money from the state treasury for the relief of persons, corporations or municipalities injured or damaged by surface subsidence resulting from past or future mining of anthracite coal. The first change is in accordance with modern thought and practice. The other two will, we hope, enable the state government to take care of an existing condition in the Lackawanna coal district which is at present beyond the ability of the municipalities concerned to deal with in a way fair to all the public and private interests affected.

## Suffrage and Elections.

### *Race, Color or Sex.*

In the article on Suffrage and Elections, we have inserted a provision expressly declaring that the right to vote or to hold office shall not be denied on account of race, color or sex.

### *Payment of Tax.*

The tax qualification for voting is omitted.

## Corporations.

The present constitution contains many wise provisions relating to corporations which it would be most unfortunate to alter, but it also contains certain prohibitions which experience has shown serve no public interest and hamper legitimate enterprise.

### *Holding Real Estate.*

We have omitted the present restriction with respect to corporate ownership of real estate.

### *Stock Issues.*

A change is suggested in the provisions with respect to issuing stock, so that it will be possible to issue new stock for less than par if the market value is below par.

### *Investment by Trustees.*

The proposed constitution permits the investment by trustees in corporate bonds, provided such bonds are approved by an agency created by law.

## Public Utilities.

In the article on public utilities, alterations and additions are suggested to meet the growing importance of the subject.

### *Regulation.*

In the constitution as proposed, it is declared that all public utilities, and not merely railroads, canals and telegraphs, as in the present constitution, may be regulated by law or by an agency created by law, and the principles stated in the present constitution relating to the obligations of railroad, canal and telegraph corporations to the public and to each other have been amplified and extended to all utilities engaged in the transportation or transmission of passengers, freight or messages.

### *Consolidation of Corporations.*

It is proposed to permit the consolidation of public service corporations, subject to proper regulation.

*Surplus Electricity.*

A provision is inserted permitting a common carrier to sell to others its surplus electricity for light, heat or power.

*Rights in Waters.*

We recommend that neither the state government nor a municipality should be permitted to grant a right in waters for more than fifty years or without just compensation.

**Education.***Public Educational System.*

The improvement of the educational system of the commonwealth is a matter of immediate necessity. The suggested article on this subject requires the creation of a system of education no more than adequate, though far in advance of that which exists today. This system is to include free elementary, secondary and vocational education for all children, free mental and vocational training for persons under mental or physical disability, free education in American citizenship for adults, schools for the training of teachers, public libraries and one or more universities. The system is to be administered by a state council of education appointed by the governor with a commissioner of education as its chief executive officer.

*School Fund.*

A permanent state school fund is provided.

*English Language.*

There is a provision requiring the basic instruction in public and private schools to be given in the English language and from English text books.

**Social Welfare.**

As a people we have grown conscious to a degree in which we were not conscious fifty years ago of the obligation of the commonwealth to care for those who, on account of physical or mental infirmities, cannot care for themselves. The article on Social Welfare in the constitution as proposed declares that laws shall be enacted providing for the maintenance of an efficient system of institutions and agencies to care for residents of the commonwealth who cannot care for and support themselves on account of physical or mental infirmities or other misfortunes. It also provides that those sentenced to imprisonment shall be employed at useful labor and compensated for their employment. Finally, provision is made for subjecting charitable, correctional and penal institutions and agencies to governmental inspection and supervisory control and for vesting the power to enforce the law with respect to such institutions in one or more departments of the state government or in such agencies as may be prescribed by law.

### Municipalities.

The increase of urban population since the last constitutional convention and the growth of two great metropolitan districts of which Philadelphia and Pittsburgh are the centers, present many constitutional problems which did not exist in 1873. The article on Municipalities in the constitution as proposed therefore necessarily contains a large number of important changes of substance, while many of its sections deal with subjects on which the present constitution is silent.

#### *Classification.*

It is suggested that, on the basis of population, cities, counties and school districts should be divisible into seven classes and that other municipalities should be divisible into five classes.

#### *Home Rule for Cities.*

A "home rule" section provides that laws may be enacted giving to cities of a particular class authority to frame, adopt and amend charters for their organization and government.

#### *Change of Boundaries.*

It is recommended that the boundaries of cities and boroughs should be changed only with the consent of the inhabitants of the territory affected.

#### *Appointment of Officers.*

To make "ripper legislation" impossible, a section is suggested providing that appointive municipal officers must be appointed by an officer or agent of the municipality.

#### *Philadelphia County Officers.*

To meet problems peculiar to Philadelphia, it is proposed that, in a county co-extensive with a city, county officers may be abolished and their duties may be imposed upon city officers. In order to eliminate the "mandamus evil," it is further suggested that in such counties the salaries and expenses of county officers and the expenses of local judges should be controlled by the municipal authorities.

#### *Borrowing Power.*

The provisions of the present constitution with respect to the borrowing power of municipalities and the amortization of municipal loans are completely revised. We believe that the suggested provisions will enable municipalities to borrow sufficient money for all necessary public improvements without a constant resort to the process of constitutional amendment.

#### *Assessment of Benefits.*

To facilitate further the erection of public improvements, it is suggested that it should be possible to enact laws providing for the assessment of benefits against property specially and

particularly benefited by such improvements even though not actually abutting on the improvements.

### *Excess Condemnation.*

It is also suggested that the state government and municipalities should be permitted to acquire, by right of eminent domain, more land than it is proposed to retain and to dispose of the surplus subject to appropriate restrictions.

### *Zoning Regulations.*

Zoning regulations are declared to be within the scope of municipal powers.

### *Contracts between Municipalities.*

To meet the needs of municipalities with mutual interests, it is recommended that two or more municipalities should be permitted to contract for the joint conduct of public enterprises.

### *Future Amendments and Revision.*

In the article on amendments and revision, a new section is suggested providing for a method of erecting constitutional conventions, to frame new constitutions or to suggest amendments or revisions.

## CONSTITUTIONAL CONVENTION RECOMMENDED.

If a considerable number of changes of substance are, as we believe, necessary to make the constitution of the commonwealth conform to modern thought and conditions, it is evident that the present constitution should be revised—not burdened with a large number of additional amendments.

The constitution as proposed is, in effect, a revision of the present constitution.

There are two methods of changing the constitution: one, by constitutional convention: the other, by the adoption of amendments in the manner prescribed by Article XVIII of the present constitution.

The commonwealth has had four constitutions,—those of 1776, 1790, 1838 and 1874. Each of these constitutions was drafted by a constitutional convention, the members of which were elected by the people.

The method of amendment provided in Article XVIII of the present constitution is first found in the constitution of 1838. It was inserted not as a substitute for the constitutional convention, but to provide a means by which the provisions of some one section could be amended without the necessity of calling a convention to propose the amendment. This being the manifest purpose of Article XVIII, there is grave doubt whether the machinery of amendment provided for in that article can be used to adopt, under the form of one or more amendments, what is in effect a general revision of the constitution.

We believe in representative government as a fundamental American institution. It is one of the essentials of representative government that the whole people, through representatives duly selected in a manner authorized by the people, shall have the right to frame their fundamental law. A constitutional convention, composed of duly selected representatives, is the only practical way in which the citizens of the great Commonwealth can frame a constitution. It is also one of the essentials that the revision of the fundamental law, so made by a representative convention, constituted in accordance with the wish of the citizens, should be submitted to the people for their approval or disapproval.

We, therefore, recommend the enactment of laws necessary to provide for

- (1) The submission to the people of the question of calling a constitutional convention, and the method of selection of the members of the proposed convention.

- (2) The reference to the convention of the constitution here proposed.

- (3) The submission to the people of the proposals of the convention.

WILLIAM I. SCHAFFER, Chairman  
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HAMPTON L. CARSON  
JOHN P. CONNELLY  
THOMAS DeWITT CUYLER  
CHARLES H. ENGLISH  
JOHN S. FISHER  
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CHESTER J. TYSON  
JOHN A. VOLL  
MRS. BARCLAY H. WARBURTON





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PART II.

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PROPOSED CONSTITUTION.

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## PART II.

### PROPOSED CONSTITUTION.

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## CONCLUDING SECTION.

Art. I, Preamble, Secs. 1, 2,

## PROPOSED CONSTITUTION.

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### PREAMBLE.

We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking his guidance, do ordain and establish this Constitution.

### ARTICLE I.

#### DECLARATION OF RIGHTS.

That the general, great and essential principals of liberty and free government may be recognized and unalterably established, we declare that—

#### Natural Rights of Mankind.

Section 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. I.
- Constitution of 1790, Art. IX, sec. 1, (Verbatim).
- Constitution of 1838, Art. IX, sec. 1, (Verbatim).
- Constitution of 1874, Art. I, sec. 1, (Verbatim).

#### Power of People.

Section 2. All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. V.
- Constitution of 1790, Art. IX, sec. 2.
- Constitution of 1838, Art. IX, sec. 2.
- Constitution of 1874, Art. I, sec. 2, (Verbatim).

## Art. I, Secs. 3, 4, 5, 6, 7

**Rights of Conscience.—Freedom of Religious Worship.**

Section 3. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience and no preference shall ever be given by law to any religious establishments or modes of worship.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. II.
- Constitution of 1790, Art. IX, sec. 3. (Verbatim).
- Constitution of 1838, Art. IX, sec. 3. (Verbatim).
- Constitution of 1874, Art. I, sec. 3. (Verbatim).

**No Disqualification for Religious Belief.**

Section 4. No person who acknowledges the being of a God and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. II.
- Constitution of 1790, Art. IX, sec. 4. (Verbatim).
- Constitution of 1838, Art. IX, sec. 4. (Verbatim).
- Constitution of 1874, Art. I, sec. 4. (Verbatim).

**Freedom of Elections.**

Section 5. Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. VII.
- Constitution of 1790, Art. IX, sec. 5.
- Constitution of 1838, Art. IX, sec. 5.
- Constitution of 1874, Art. I, sec. 5. (Verbatim).

**Trial by Jury.**

Section 6. Trial by jury shall be as heretofore, and the right thereof remain inviolate.

Corresponding provisions in—

- Constitution of 1776 Dec. of Rights, cl. XI; sec. 25.
- Constitution of 1790, Art. IX, sec. 6. (Verbatim).
- Constitution of 1838, Art. IX, sec. 6. (Verbatim).
- Constitution of 1874, Art. I, sec. 6. (Verbatim).

**Freedom of the Press.—Libel.**

Section 7. The printing press shall be free to every person who may undertake to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely



**Art. I, Secs. 8, 9, 10**

speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Corresponding provisions in—

Constitution of 1776, Dec. of Rights, cl. XII, sec. 35.

Constitution of 1790, Art. IX, sec. 7.

Constitution of 1828, Art. IX, sec. 7.

Constitution of 1874, Art. I, sec. 7, (Verbatim).

**Searches and Seizures.**

Section 8. The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

Corresponding provisions in—

Constitution of 1776, Dec. of Rights, cl. X.

Constitution of 1790, Art. XI, sec. 8.

Constitution of 1828, Art. IX, sec. 8.

Constitution of 1874, Art. I, sec. 8, (Verbatim).

**Rights of Accused in Criminal Prosecutions.**

Section 9. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land.

Corresponding provisions in—

Constitution of 1776, Dec. of Rights, cl. IX.

Constitution of 1790, Art. IX, sec. 9, (Verbatim).

Constitution of 1828, Art. IX, sec. 9, (Verbatim).

Constitution of 1874, Art. I, sec. 9, (Verbatim).

**Criminal Information.—Twice in Jeopardy.—Eminent Domain.**

Section 10. No person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. No person shall, for the same offense, be

**Art. I, Secs. 11, 12, 13, 14**

twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Corresponding provisions in—

Constitution of 1776, Dec. of Rights, cl. VIII.

Constitution of 1790, Art. IX, sec. 10.

Constitution of 1838, Art. IX, sec. 10.

Constitution of 1874, Art. I, sec. 10, (Verbatim).

**Courts to be Open.—Suits Against Commonwealth.**

Section 11. All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the commonwealth in such manner, in such courts and in such cases as the legislature may by law direct.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 11, (Verbatim).

Constitution of 1838, Art. IX, sec. 11, (Verbatim).

Constitution of 1874, Art. I, sec. 11, (Verbatim).

**Power of Suspending Laws.**

Section 12. No power of suspending laws shall be exercised unless by the legislature or by its authority.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 12.

Constitution of 1838, Art. IX, sec. 12.

Constitution of 1874, Art. I, sec. 12, (Verbatim).

**Bail.—Fines.—Punishments.**

Section 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

Corresponding provisions in—

Constitution of 1776, sec. 29.

Constitution of 1790, Art. IX, sec. 13, (Verbatim).

Constitution of 1838, Art. IX, sec. 13, (Verbatim).

Constitution of 1874, Art. I, sec. 13, (Verbatim).

**Prisoners to be Bailable.—Habeas Corpus.**

Section 14. All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or presumption great: and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

Corresponding provisions in—

Constitution of 1776, sec. 28.

Constitution of 1790, Art. IX, sec. 14, (Verbatim).

Constitution of 1838, Art. IX, sec. 14, (Verbatim).

Constitution of 1874, Art. I, sec. 14, (Verbatim).

Art. I, Secs. 15, 16, 17, 18, 19

### Oyer and Terminer.

Section 15. No commission of oyer and terminer or jail delivery shall be issued.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 15, (Verbatim).

Constitution of 1838, Art. IX, sec. 15, (Verbatim).

Constitution of 1874, Art. I, sec. 15, (Verbatim).

### Insolvent Debtors.

Section 16. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Corresponding provisions in—

Constitution of 1776, sec. 28.

Constitution of 1790, Art. IX, sec. 16, (Verbatim).

Constitution of 1838, Art. IX, sec. 16, (Verbatim).

Constitution of 1874, Art. I, sec. 16, (Verbatim).

### Ex Post Facto Laws.—Impairment of Contracts.

Section 17. No ex post facto law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 17.

Constitution of 1838, Art. IX, sec. 17.

Constitution of 1874, Art. I, sec. 17, (Verbatim).

### Attainder.

Section 18. No person shall be attainted of treason or felony by the legislature.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 18, (Verbatim).

Constitution of 1838, Art. IX, sec. 18, (Verbatim).

Constitution of 1874, Art. I, sec. 18, (Verbatim).

### Attainder Limited.—Estates of Suicides.—Deodands.

Section 19. No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of estate to the commonwealth. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death, and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Corresponding provisions in—

Constitution of 1790, Art. IX, sec. 19.

Constitution of 1838, Art. IX, sec. 19.

Constitution of 1874, Art. I, sec. 19, (Verbatim).

## Art. I, Secs. 20, 21, 22, 23, 24

## Right of Petition.

Section 20. The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. XVI.
- Constitution of 1790, Art. IX, sec. 20, (Verbatim).
- Constitution of 1838, Art. IX, sec. 20, (Verbatim).
- Constitution of 1874, Art. I, sec. 20, (Verbatim).

## Right to Bear Arms.

Section 21. The right of the citizens to bear arms in defense of themselves and the state shall not be questioned.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. XIII.
- Constitution of 1790, Art. IX, sec. 21, (Verbatim).
- Constitution of 1838, Art. IX, sec. 21, (Verbatim).
- Constitution of 1874, Art. I, sec. 21, (Verbatim).

## Standing Army.—Military Power Subordinate to Civil.

Section 22. No standing army shall, in time of peace, be kept up without the consent of the legislature, and the military shall in all cases and at all times be in strict subordination to the civil power.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. XIII.
- Constitution of 1790, Art. IX, sec. 22, (Verbatim).
- Constitution of 1838, Art. IX, sec. 22, (Verbatim).
- Constitution of 1874, Art. I, sec. 22, (Verbatim).

## Quartering of Troops.

Section 23. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Corresponding provisions in—

- Constitution of 1790, Art. IX, sec. 23, (Verbatim).
- Constitution of 1838, Art. IX, sec. 23, (Verbatim).
- Constitution of 1874, Art. I, sec. 23, (Verbatim).

## Titles.—Officers.

Section 24. The legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

Corresponding provisions in—

- Constitution of 1790, Art. IX, sec. 24.
- Constitution of 1838, Art. IX, sec. 24.
- Constitution of 1874, Art. I, sec. 24, (Verbatim).

Art. I, Secs. 25, 26; Art. II, Secs. 1, 2, 3

### Emigration.

Section 25. Emigration from the state shall not be prohibited.

Corresponding provisions in—

- Constitution of 1776, Dec. of Rights, cl. XV;
- Constitution of 1790, Art. IX, sec. 25, (Verbatim).
- Constitution of 1838, Art. IX, sec. 25, (Verbatim).
- Constitution of 1874, Art. I, sec. 25, (Verbatim).

### Reservation of Powers in People.

Section 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

Corresponding provisions in—

- Constitution of 1790, Art. IX, sec. 26, (Verbatim).
- Constitution of 1838, Art. IX, sec. 26, (Verbatim).
- Constitution of 1874, Art. I, sec. 26, (Verbatim).

## ARTICLE II.

### THE GENERAL ASSEMBLY.

#### Legislative Power.

Section 1. The legislative power of the commonwealth shall be vested in a general assembly which shall consist of a senate and a house of representatives.

Corresponding provisions in—

- Constitution of 1776, sec. 2.
- Constitution of 1790, Art. I, sec. 1.
- Constitution of 1838, Art. I, sec. 1.
- Constitution of 1874, Art. II, sec. 1.

#### Legislative Apportionment.

Section 2. At the first session of the general assembly after this constitution becomes effective and at the first session of the general assembly after each United States decennial census, the state shall be divided by law into senatorial and representative districts.

Corresponding provisions in—

- Constitution of 1776, sec. 17.
- Constitution of 1790, Art. I, secs. 4, 6, 7.
- Constitution of 1838, Art. I, secs. 4, 6, 7.
- Constitution of 1874, Art. II, sec. 18.

#### Senatorial Districts.

Section 3. The state shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one senator.

## Art. II, Secs. 4, 5

The senatorial ratio shall be obtained by dividing the whole population of the state, as ascertained by the most recent United States decennial census, by the number fifty. A county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for an excess of population exceeding three-fifths of a ratio. No county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators, when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio. No county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough or township shall be divided in the formation of a district.

Corresponding provisions in—

Constitution of 1790, Art. I, secs. 6, 7.

Constitution of 1838, Art. I, secs. 6, 7.

Constitution of 1874, Art. II, sec. 16.

## Representative Districts.

Section 4. The members of the house of representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the state as ascertained by the most recent United States decennial census by the number two hundred. A county containing less than five ratios shall have one representative for each full ratio, and an additional representative when the excess exceeds half a ratio; but each county shall have at least one representative. A county containing five ratios or more shall have one representative for each full ratio. A city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. A city entitled to more than four representatives and a county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory. A district shall elect its proportion of representatives according to its population, but no district shall elect more than four representatives.

Corresponding provisions in—

Constitution of 1776, sec. 17.

Constitution of 1790, Art. I, sec. 4.

Constitution of 1838, Art. I, sec. 4.

Constitution of 1874, Art. II, sec. 17.

## Qualification of Members.

Section 5. A senator shall be at least twenty-five years of age and a representative shall be at least twenty-one years of age. Each shall have been a citizen of the commonwealth and a resident of the state for four years and a resident of his district for one year next before his election, unless absent on the public business of the United States,

**Art. II, Secs. 6, 7, 8, 9**

of the state government or of a municipality of the commonwealth. He shall reside in his district during his term of service.

Corresponding provisions in—

Constitution of 1776, secs. 7, 8.

Constitution of 1790, Art. I, secs. 3, 8.

Constitution of 1838, Art. I, secs. 3, 8.

Constitution of 1874, Art. II, sec. 5.

**Election and Terms of Members.**

Section 6. Members of the general assembly shall be chosen at the general election. Their terms of service shall begin on the first day of December after their election. Senators shall serve for four years and representatives for two years. When a vacancy shall occur in either house, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

Corresponding provisions in—

Constitution of 1776, sec. 9.

Constitution of 1790, Art. I, secs. 2, 5, 19.

Constitution of 1838, Art. I, secs. 2, 5, 20.

Constitution of 1874, Art. II, secs. 2, 3.

**Compensation of Members.**

Section 7. The members of the general assembly shall receive salary and mileage for regular and special sessions as prescribed by law and no other compensation, whether for services upon committee or otherwise. No member of the general assembly shall, during the term for which he has been elected, receive an increase of salary or mileage allowance under a law enacted during such term.

Corresponding provisions in—

Constitution of 1790, Art. I, sec. 17.

Constitution of 1838, Art. I, sec. 18.

Constitution of 1874, Art. II, sec. 8.

**Privileges of Members.**

Section 8. A member of the general assembly shall be privileged from arrest during attendance at the sessions thereof and in going to and returning from the same, except in cases of treason, felony, violation of his oath of office and breach or surety of the peace. For a speech or debate in the general assembly he shall not be questioned in any other place.

Corresponding provisions in—

Constitution of 1790, Art. I, sec. 17.

Constitution of 1838, Art. I, sec. 18.

Constitution of 1874, Art. II, sec. 15.

**Times of Sessions.**

Section 9. The general assembly shall meet at twelve o'clock noon, on the first Tuesday of January in each odd-numbered year and at

## Art. II, Secs. 10, 11, 12, 13

other times when convened by the governor. It shall hold no adjourned annual session.

Corresponding provisions in—

- Constitution of 1776, sec. 9.
- Constitution of 1790, Art. I, sec. 10.
- Constitution of 1838, Art. I, sec. 10.
- Constitution of 1874, Art. II, sec. 4.

## Quorums.

Section 10. In each house a majority of the members shall constitute a quorum. A smaller number may adjourn from day to day and compel the attendance of absent members.

Corresponding provisions in—

- Constitution of 1776, sec. 10.
- Constitution of 1790, Art. I, sec. 12.
- Constitution of 1838, Art. I, sec. 12.
- Constitution of 1874, Art. II, sec. 10.

## Powers of Each House.

Section 11. Each house shall have power to make its rules of procedure, to judge of the election and qualifications of its members, to punish for contempt or disorderly behavior in its presence, to enforce obedience to its processes, to protect its members against violence, offers of bribes or private solicitation, and by a vote of two-thirds of the members, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free commonwealth. A member expelled for corruption shall not thereafter be eligible to either house. Punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

Corresponding provisions in—

- Constitution of 1776, sec. 9.
- Constitution of 1790, Art. I, secs. 12, 13.
- Constitution of 1838, Art. I, secs. 12, 13.
- Constitution of 1874, Art. II, secs. 9, 11.

## Choice of Officers.

Section 12. The senate shall, at the beginning and close of each regular session and at other necessary times, elect one of its members as president pro tempore. The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers.

Corresponding provisions in—

- Constitution of 1776, sec. 9.
- Constitution of 1790, Art. I, sec. 11.
- Constitution of 1838, Art. I, sec. 11.
- Constitution of 1874, Art. II, sec. 9.

## Officers and Employes.

Section 13. The officers and employes of each house shall have active duties and shall be selected and compensated in pursuance of laws prescribing their number, duties and compensation.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 10.



Art. II, Secs. 14, 15, 16; Art. III, Secs. 1, 2

### Journals.

Section 14. Each house shall keep a journal of its proceedings, and shall publish so much thereof as shall not require secrecy. At the request of two members, the yeas and nays on a question shall be entered on the journal.

Corresponding provisions in—

- Constitution of 1776, sec. 14.
- Constitution of 1790, Art. I, sec. 14.
- Constitution of 1838, Art. I, sec. 15.
- Constitution of 1874, Art. II, sec. 12.

### Sessions to be Open.

Section 15. The sessions of each house and of committees of the whole shall be open unless the business ought to be kept secret.

Corresponding provisions in—

- Constitution of 1776, sec. 13.
- Constitution of 1790, Art. I, sec. 15.
- Constitution of 1838, Art. I, sec. 16.
- Constitution of 1874, Art. II, sec. 13.

### Adjournments.

Section 16. Neither house shall, without the consent of the other, adjourn for more than three days, or to a place other than that in which the two houses shall be sitting.

Corresponding provisions in—

- Constitution of 1790, Art. I, sec. 16, (Verbatim).
- Constitution of 1838, Art. I, sec. 17, (Verbatim).
- Constitution of 1874, Art. II, sec. 14.

## ARTICLE III.

### LEGISLATION.

#### Method of Enacting Laws.

Section 1. Laws shall be enacted by bill only.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 1.

#### Bills for Raising Revenue.

Section 2. Bills for raising revenue shall originate in the house of representatives. The senate may propose amendments.

Corresponding provisions in—

- Constitution of 1790, Art. I, sec. 20.
- Constitution of 1838, Art. I, sec. 21.
- Constitution of 1874, Art. III, sec. 14.

## Art. III, Secs. 3, 4, 5, 6, 7

**Printing and Reference of Bills.**

Section 3. Before consideration, a bill shall be referred to a committee, returned therefrom, and printed for the use of the members.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 2.

**Member Interested in Bill Not to Vote.**

Section 4. A member of the general assembly who has a private interest in a measure or bill shall disclose the fact to the house of which he is a member, and shall not vote thereon.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 33.

**Amendments and Conference Committees.**

Section 5. An amendment to a bill shall be printed for the use of the members before the final vote is taken on the bill. An amendment by one house shall be concurred in by the other and a report of a committee of conference shall be adopted by either house only by the vote of a majority of the members taken by yeas and nays. The names of the members voting for and of those voting against such amendment or report shall be entered on the journal. A bill shall not be so altered or amended on its passage through either house as to change its original purpose.

Corresponding provisions in—  
Constitution of 1776, sec. 15.  
Constitution of 1874, Art. III, secs. 1, 4, 5.

**Notice of Local or Special Bills.**

Section 6. At least thirty days before the introduction of a local or special bill, notice of the intention to introduce the same shall be published in the locality where the matter or thing to be effected shall be situated. No such bill shall be finally acted on by either house until the evidence of such notice having been published has been exhibited therein. Notice shall not be required of the intention to introduce a general bill for the repeal of a local or special law.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 8.

**Final Passage of Bills.**

Section 7. Before a bill shall be passed, it shall be read at length on three different days in each house; on its final passage the vote shall be taken by yeas and nays, the names of the members voting for and of those voting against shall be entered on the journals, and a majority of the members elected to each house shall be recorded thereon as voting in its favor.

Corresponding provisions in—  
Constitution of 1776, sec. 15.  
Constitution of 1874, Art. III, sec. 4.

**Art. III, Secs. 8, 9, 10, 11, 12****Signing of Bills by Presiding Officers.**

Section 8. The presiding officer of each house shall, in the presence of the house over which he presides, sign bills and joint resolutions passed by the general assembly, after their titles have been publicly read immediately before signing. The fact of signing shall be entered on the journal.

Corresponding provisions in—  
Constitution of 1874, Article III, sec. 9.

**One Subject in Each Law.**

Section 9. A law shall contain only one subject. A general appropriation law, a codification, and a compilation or general revision of statutory law shall be deemed to contain only one subject.

Corresponding provisions in—  
Constitution of 1838, Art. XI, sec. 8, (Amended 1864).  
Constitution of 1874, Art. III, sec. 3.

**Titles of Laws.**

Section 10. The subject of a law shall be clearly expressed in its title. A law may in the body thereof set forth a short title by which it may be cited. A law amending, reviving or extending a law shall set forth in its title the title or the short title of the law affected.

Corresponding provisions in—  
Constitution of 1838, Art. XI, sec. 8, (Amended 1864).  
Constitution of 1874, Art. III, sec. 3.

**Form of Amending, Reviving or Extending Laws.**

Section 11. A law amending, reviving or extending a law or conferring the provisions thereof shall set forth in full the part of the law affected, and an amending law shall also set forth in full the part of the law affected as amended.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 6.

**Budget and Appropriation Bills.**

Section 12. The governor shall submit to the general assembly a budget on or before March 1 of each year in which it shall be in regular session. The budget shall contain a complete plan of proposed appropriations and complete estimates of the revenues and funds available for appropriation for the two ensuing fiscal years, including appropriations for charitable, educational and benevolent purposes. In submitting proposals for appropriations to charitable, educational or benevolent institutions not under the absolute control of the state government, the governor shall at the same time submit a plan of distribution among the classes of institutions to be benefited.

## Art. III, Sec. 13

When the governor presents the budget to the house of representatives, he shall submit a general appropriation bill containing the proposed appropriations for the fiscal years covered by the budget and may also submit any bill embodying recommendations as to sources of revenue.

The presiding officer of the house of representatives shall immediately cause such bills to be introduced.

The general assembly may increase, decrease, strike out or otherwise alter any item in the general appropriation bill, or may add new items thereto.

Until the general appropriation law has been enacted neither house shall consider an appropriation bill other than the general appropriation bill unless the appropriation shall be solely for the immediate needs of the general assembly or unless the governor shall request the general assembly to act upon the bill in advance of the general appropriation bill.

After the general appropriation law has been enacted, no appropriation shall be made for any purpose, object or item included therein or in the general appropriation bill as submitted by the governor, unless the governor shall request the general assembly to pass a bill making such appropriation.

The general assembly shall not finally adjourn for ten days after the general appropriation bill has been presented to the governor.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 15.

### Appropriations to Charitable and Educational Institutions.

Section 13. An appropriation for charitable, educational or benevolent purposes may be made to a class of corporations, associations or institutions not under the absolute control of the state government, engaged in work or service for the public good, as such classes may be defined by law. Such work or service shall conform to standards of excellence prescribed by law or by any agency created by law.

An appropriation to such a class shall be divided among its members in accordance with a plan uniform in its application to them as prescribed by law. No law shall designate such a corporation, association or institution as the beneficiary of an appropriation.

Each item containing such an appropriation shall be voted on separately in each house before final action is taken upon the bill of which it is a part and shall be stricken from the bill unless it shall receive the support of two-thirds of the members elected. The votes of each house shall be taken by yeas and nays and the names of the members voting for and of those voting against the item shall be entered on the journal.

Corporations, associations and institutions receiving such appropriations shall account therefor to the general assembly or to an agency prescribed by law and shall be subject to inspection by the state government.

**Art. III, Secs. 14, 15, 16, 17**

After the establishment of one or more state universities, no appropriation for an educational purpose shall be made by the state government to a corporation, association or institution, or to a class of corporations, associations or institutions, not under the absolute control of the state government or of a municipality.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 17.

**Appropriations to Denominational Institutions.**

Section 14. No appropriations shall be made for charitable, educational or benevolent purposes to any denominational or sectarian institution, corporation or association.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 18.

**Certain Appropriations Permitted.**

Section 15. Appropriations may be made for the payment of pensions and gratuities for military services; for the payment of pensions for the retirement of classes of officers and employes of the state government and school districts; for the relief of persons or municipalities injured or damaged by surface subsidence resulting from past or future mining of anthracite coal; for relief consequent upon grave public disasters or calamities; for the payment to funds under public control for the benefit of classes of persons who are to be the recipients of public assistance; and for the payment of the debts of municipalities contracted to enable the commonwealth to repel invasion, suppress domestic insurrection or defend itself in time of war.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 18.

**Gratuities and Extra Compensation Forbidden.**

Section 16. Except as in this constitution expressly provided, no appropriation shall be made by the state government for charitable, benevolent or educational purposes to any person or community, and no law shall authorize a gratuity by the state government, give extra compensation after services have been rendered or contract made, or appropriate money to pay a claim against the commonwealth without previous authority of law.

Corresponding provisions in—

Constitution of 1874, Art. III, secs. 11, 18.

**Approval and Veto by Governor.**

Section 17. Every order, resolution or vote to which the concurrence of both houses shall be necessary, except on the question of adjournment or of agreement to an amendment to this constitution

## Art. III, Secs. 18, 19, 20

shall if passed by the general assembly be presented to the governor. If he approves it, he shall sign it and it shall then become a law. If he shall not approve it, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal. If, after reconsideration two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent with the governor's objections to the other house and if approved by two-thirds of the members elected to that house shall become law. The votes of each house shall be taken by yeas and nays and the names of the members voting for and of those voting against the bill shall be entered on the journal.

If a bill shall not be returned by the governor within ten days after it has been presented to him, it shall become law unless the general assembly by its adjournment prevents its return. In case of such adjournment the bill shall become law unless within thirty days after adjournment the governor shall file it with his objections in the office of the secretary of the commonwealth and shall give notice thereof by public proclamation.

Corresponding provisions in—

Constitution of 1790, Art. I, secs. 22, 23.

Constitution of 1838, Art. I, secs. 23, 24.

Constitution of 1874, Art. III, sec. 26; Art. IV, sec. 15.

### Approval and Veto of Appropriation Bills.

Section 18. The governor may indicate his approval or disapproval of an appropriation bill by signing or vetoing it as in the case of other bills. If he shall approve one or more items and shall disapprove or reduce one or more other items, he shall return the bill to the house in which it originated setting forth his reasons. The items which he approves shall become law. The items which he disapproves or reduces may be passed over his objections by separate action on each item in the manner prescribed for the passage of bills over his veto. Such items not passed over his objections shall, in accordance with his recommendation, be stricken from the bill or shall become law as reduced by him.

Corresponding provisions in—

Constitution of 1874, Art. IV, sec. 16.

### When Laws Shall Take Effect.

Section 19. A law shall become effective on the first day of January after its enactment unless otherwise provided therein.

### Local and Special Laws Forbidden.

Section 20. No local or special law shall be enacted:

- (a) Regulating the affairs of a municipality;
- (b) Changing the names of persons or places;

## Art. III, Sec. 21

(c) For the creation or regulation of highways, ferries or bridges, except bridges across streams which form state boundaries;

(d) Regulating burial grounds or public grounds not belonging to the commonwealth;

(e) Granting divorces or authorizing the adoption or legitimation of children;

(f) Regulating elections, except that laws regulating the registration of electors may be applied to cities or boroughs of a specified class only;

(g) Regulating the organization, jurisdiction and powers of courts of the same class or grade, judicial process, or the administration of justice;

(h) Regulating liens, the collection of debts or the effect of judicial sales of real estate;

(i) Regulating schools;

(j) Fixing the rate of interest;

(k) Regulating the estates of decedents, minors or persons under disability;

(l) Regulating labor, trade, mining or manufacturing;

(m) Creating corporations, or amending, renewing or extending their charters;

(n) Exempting property from taxation;

(o) Granting a benefit, privilege or power.

No local or special law shall be indirectly enacted by the partial repeal of a general law. Laws repealing local or special laws may be enacted.

Corresponding provisions in—

Constitution of 1838, Art. I, sec. 14; Art. XI, sec. 9, (Amended 1864).

Constitution of 1874, Art. III, sec. 7; Art. V, sec. 26; Art. VIII, sec. 7.

### Damages for Injuries.

Section 21. Laws may be enacted requiring the payment by employers, or by employers and employes jointly, of reasonable compensation for injuries to employes arising in the course of their employment and for occupational diseases of employes, whether or not such injuries or diseases result in death and regardless of fault of employer or employe, fixing the basis of ascertainment of such compensation and its maximum and minimum limits, and providing special or general remedies for the collection thereof. In no other case shall a limit be set by law upon the amount to be recovered for injuries to persons or property. In case of death from injuries, the right of action therefor shall survive and shall be exercised by persons designated by law.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 21, (Amended 1915).

## Art. III, Secs. 22, 23, 24, 25, 26

**Land Titles.**

Section 22. Laws may be enacted providing that the state government or the counties may register, transfer, insure or guarantee titles to lands, and providing for the determination of interests in such lands and for the creation of indemnity funds. For such purposes courts may be established and judicial powers may be conferred upon officers of the state government or of the counties subject to the right of appeal by the parties interested to the courts.

Corresponding provisions in—

- Constitution of 1874, (Amendment of 1915, without article or section number).

**Militia.**

Section 23. Laws shall be enacted to provide for the arming, organization, maintenance, and discipline of the citizens of the commonwealth for its defense. Persons having conscientious scruples against bearing arms may be exempted by law from military service.

Corresponding provisions in—

- Constitution of 1776, sec. 5.
- Constitution of 1790, Art. VI, sec. 2.
- Constitution of 1838, Art. VI, sec. 2.
- Constitution of 1874, Art. XI, sec. 1.

**Streams.**

Section 24. General laws shall be enacted to provide for maintaining the purity of streams.

**Legislation at Special Sessions.**

Section 25. At a special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 25.

**Change of Capital.**

Section 26. No law changing the location of the capital shall be valid unless ratified by a majority of the electors of the commonwealth voting on the question.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 28.



Art. IV, Secs. 1, 2, 3, 4

## ARTICLE IV.

### THE EXECUTIVE.

#### Executive Power.

Section 1. The executive power of the commonwealth shall be vested in a governor, a lieutenant-governor, a secretary of the commonwealth, an attorney general, an auditor general, a state treasurer, a secretary of internal affairs, a commissioner of education, and in other executive officers as prescribed by law.

Corresponding provisions in—  
Constitution of 1874, Art. IV, sec. 1.

#### Qualifications of Governor.

Section 2. The governor shall be a citizen of the United States at least thirty years of age. He shall have been a resident of the state for seven years next preceding his election unless absent on the public business of the United States or of the state government.

Corresponding provisions in—  
Constitution of 1790, Art. II, sec. 4.  
Constitution of 1838, Art. II, sec. 4.  
Constitution of 1874, Art. IV, sec. 5.

#### Election of Governor.

Section 3. The governor shall be chosen by the electors of the commonwealth at the places where they shall vote for representatives. The returns of the election shall be sealed up and transmitted to the seat of government, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses of the general assembly. The person having the highest number of votes shall be governor. If two or more shall have the same and the highest number of votes, one of them shall be chosen governor by the joint vote of the members of both houses.

Corresponding provisions in—  
Constitution of 1776, sec. 3.  
Constitution of 1790, Art. II, sec. 2.  
Constitution of 1838, Art. II, sec. 2.  
Constitution of 1874, Art. IV, sec. 2.

#### Contested Election of Governor.

Section 4. A contested election of a governor shall be determined by a committee selected from both houses of the general assembly and formed and regulated as prescribed by law.

The chief justice of the supreme court shall preside at the trial of such a contested election. He shall determine question regarding

**Art. IV, Secs. 5, 6, 7, 8**

the admissibility of evidence and shall, upon request of the committee, pronounce his opinion upon other questions of law.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 2.

Constitution of 1838, Art. II, sec. 2.

Constitution of 1874, Art. IV, sec. 2.

**Term of Governor.**

Section 5. The governor shall hold office for four years from the third Tuesday of January succeeding his election or until his successor shall qualify. A person elected governor shall not be eligible for the succeeding term.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 3.

Constitution of 1838, Art. II, sec. 3.

Constitution of 1874, Art. IV, secs. 3, 17.

**Supreme Executive Power.**

Section 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

Corresponding provisions in—

Constitution of 1776, sec. 3.

Constitution of 1790, Art. II, sec. 1.

Constitution of 1838, Art. II, sec. 1.

Constitution of 1874, Art. IV, sec. 2.

**Military Power**

Section 7. The governor shall be the commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the service of the United States.

Corresponding provisions in—

Constitution of 1776, sec. 20.

Constitution of 1790, Art. II, sec. 7.

Constitution of 1838, Art. II, sec. 7.

Constitution of 1874, Art. IV, sec. 7.

**Appointing Power.**

Section 8. The governor shall appoint a secretary of the commonwealth, an attorney general, a secretary of internal affairs and a commissioner of education, to serve during his pleasure, and other officers as prescribed by law.

When the senate is in regular session, the governor shall exercise the power to appoint an officer only after nomination to the senate and by and with the advice and consent of a majority of its members, except where he shall appoint to fill a vacancy occurring within ten days before final adjournment of the session.

The governor may fill by appointment a vacancy in an office to which he may appoint. If he shall appoint to an appointive office during a recess of the senate or to fill a vacancy occurring within ten days before final adjournment of a regular session thereof, such appointment shall be valid until the end of the next regular session

## Art. IV, Sec. 9

of the senate, and the person so appointed shall be deemed to have been rejected by the senate at such session unless nominated by the governor and confirmed by the senate.

The governor may fill by appointment a vacancy in the office of auditor general or of state treasurer and in any other elective office which he may be authorized to fill. Such vacancy shall be filled by election on the next election day appropriate to the office which shall fall not less than sixty days after the occurrence of the vacancy. Such appointee shall serve until the person so elected shall take office as prescribed by law.

If a power of appointment to an appointive or elective office shall arise during a session of the senate and not within ten days before final adjournment, the governor shall, at such session, nominate a proper person for the office. If a power of appointment to an appointive office shall arise within ten days before final adjournment of a session of the senate or during a recess of the senate, he shall, at the next session of the senate nominate a proper person for the office. In either case, if the senate shall reject a nomination and shall notify the governor that it will not adjourn within ten days, he shall nominate another person for the office. If he shall fail to nominate as herein required, he may not appoint to the office except after nomination to the senate and by and with the advice and consent of a majority of its members.

If the nomination of a person to an office shall be rejected by the senate he shall not be appointed to such office before the next session of the senate.

In acting on executive nominations, the senate shall sit with open doors. The vote shall be taken by yeas and nays and shall be entered on the journal.

Corresponding provisions in—

Constitution of 1776, sec. 20.

Constitution of 1790, Art. II, sec. 15.

Constitution of 1838, Art. II, sec. 8.

Constitution of 1874, Art. IV, sec. 7 (amended 1909); Art. V, sec. 25.

### Pardoning Power.

Section 9. The governor may remit fines and forfeitures, and may grant reprieves, commutations of sentence and pardons, except in cases of impeachment. He shall commute a sentence or grant a pardon only on the recommendation in writing of the lieutenant-governor, the secretary of the commonwealth, the attorney general and the secretary of internal affairs, or of any three of them, after full hearing, upon due public notice and in open session. Such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of the commonwealth.

Corresponding provisions in—

Constitution of 1776, sec. 20.

Constitution of 1790, Art. II, sec. 9.

Constitution of 1838, Art. II, sec. 9.

Constitution of 1874, Art. IV, sec. 9.

## Art. IV, Secs. 10, 11, 12, 13, 14

**Power to Require Information.**

Section 10. The governor may require information in writing from the executive officers of the state government with respect to their duties.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 10.

Constitution of 1838, Art. II, sec. 10.

Constitution of 1874, Art. IV, sec. 10.

**Duty to Inform General Assembly.**

Section 11. The governor shall, from time to time, give to the general assembly information of the state of the commonwealth, and shall recommend to its consideration such measures as he may judge expedient.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 11.

Constitution of 1838, Art. II, sec. 11.

Constitution of 1874, Art. IV, sec. 11.

**Power to Adjourn or Convene General Assembly.**

Section 12. The governor, in case of disagreement between the two houses of the general assembly with respect to the time of adjournment, may adjourn them to such time as he may think proper not exceeding fourth months. He may on extraordinary occasions convene by proclamation the general assembly and he may convene by proclamation the senate for the transaction of executive business.

Corresponding provisions in—

Constitution of 1776, sec. 20.

Constitution of 1790, Art. II, sec. 12.

Constitution of 1838, Art. II, sec. 12.

Constitution of 1874, Art. IV, sec. 12.

**Lieutenant-Governor.**

Section 13. The lieutenant-governor shall have the same qualifications and shall be chosen at the same time, in the same manner, and for the same term as the governor. He shall not be eligible to the office of lieutenant-governor for the succeeding term. A contested election of lieutenant-governor shall be conducted in the same manner as a contested election of governor. The lieutenant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided.

Corresponding provisions in—

Constitution of 1874, Art. IV, secs. 2, 17.

**Succession to Governorship.**

Section 14. If the office of governor shall be vacant the lieutenant-governor shall become governor. If the governor shall fail to qualify or shall be under a disability, the powers, duties and emoluments of his office until the end of the governor's term or until he shall qualify

**Art. IV, Secs. 15, 16, 17, 18**

or his disability shall be removed shall devolve on the lieutenant-governor, or, if his office shall be vacant or he shall be under a disability, then on the president pro tempore of the senate, or if his office shall be vacant or he shall be under a disability, then on a person elected by a majority of the members of the general assembly. For the purpose of such election, the general assembly may convene in special session without a proclamation of the governor upon a call signed by five members of each house.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 14.

Constitution of 1838, Art. II, sec. 14.

Constitution of 1874, Art. IV, sec. 13.

**Succession to Lieutenant-Governorship.**

Section 15. If the office of lieutenant-governor shall be vacant or if he shall fail to qualify or shall be absent or under a disability, the powers, duties and emoluments of his office, until the end of his term or until he shall qualify or return or his disability shall be removed, shall devolve on the president pro tempore of the senate. In such event the seat in the senate of the president pro tempore of the senate shall become vacant.

Corresponding provisions in—

Constitution of 1874, Art. IV, sec. 14.

**Determination of Disability.**

Section 16. The fact of disability of the governor or of the lieutenant-governor or of a person upon whom the powers and duties of either office would otherwise devolve shall be determined only by the supreme court on the address of the general assembly, agreed to by a majority of the members of each house, or, if the general assembly be not in session, on the written address of such majority.

**Secretary of the Commonwealth.**

Section 17. The secretary of the commonwealth shall keep a record of the official acts and proceedings of the governor, and perform other duties as prescribed by law. He may be required by either house of the general assembly to exhibit his record with the papers, minutes and vouchers relating thereto.

Corresponding provisions in—

Constitution of 1790, Art. II, sec. 15.

Constitution of 1838, Art. II, sec. 15.

Constitution of 1874, Art. IV, sec. 18.

**Secretary of Internal Affairs.**

Section 18. Until otherwise prescribed by law, the secretary of internal affairs shall exercise the powers and perform the duties prescribed by law when this constitution becomes effective. His department shall embrace a bureau of industrial statistics.

Corresponding provisions in—

Constitution of 1874, Art. IV, sec. 19.

## Art. IV, Secs. 19, 20, 21, 22

**Auditor General and State Treasurer.**

Section 19. The auditor general and the state treasurer shall be chosen by the electors of the commonwealth. Each shall hold his office for four years and neither shall be eligible for the succeeding term.

Corresponding provisions in—

- Constitution of 1776, sec. 9.
- Constitution of 1790, Art. VI, sec. 5.
- Constitution of 1838, Art. VI, sec. 6.
- Constitution of 1874, Art. IV, sec. 21 (amended 1909).

**State Contracts.**

Section 20. No member of the general assembly or officer or employe of the state government shall be interested in a contract with the state government, or in furnishing thereto materials or supplies.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 12.

**Public Printing and Supplies.**

Section 21. The printing and binding for the state government shall be done under contract or by the state government. Furnishings and fuel for the capitol buildings and paper and stationery for the state government shall be made or produced by the state government or procured under contract. Contracts for work or material designated in this section shall be awarded to the lowest responsible bidder, subject to the approval of the auditor general and of the state treasurer.

Corresponding provisions in—

- Constitution of 1874, Art. III, sec. 12.

**Seal and Commissions.**

Section 22. The present great seal of Pennsylvania shall be the seal of the commonwealth. Commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania. They shall be sealed with the seal of the commonwealth and signed by the governor.

Corresponding provisions in—

- Constitution of 1776, sec. 21.
- Constitution of 1790, Art. VI, sec. 4.
- Constitution of 1838, Art. VI, sec. 5.
- Constitution of 1874, Art. IV, sec. 22.

Art. V, Secs. 1, 2, 3, 4

## ARTICLE V.

### THE JUDICIARY.

#### Judicial Power.

Section 1. The judicial power of the commonwealth shall be vested in a supreme court, a superior court, courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, justices of the peace, and in such other courts as may from time to time be established by law.

Corresponding provisions in—

- Constitution of 1776, sec. 26.
- Constitution of 1790, Art. V, sec. 1.
- Constitution of 1838, Art. V, sec. 1.
- Constitution of 1874, Art. V, sec. 1.

#### Supreme Court.

Section 2. The supreme court shall consist of seven judges learned in the law, who shall have the title of justice, chosen by the electors of the commonwealth. They shall hold office for twenty-one years and shall not again be eligible. The judge longest in continuous service shall be chief justice.

Corresponding provisions in—

- Constitution of 1776, sec. 23.
- Constitution of 1790, Art. V, sec. 2.
- Constitution of 1838, Art. V, sec. 2.
- Constitution of 1874, Art. V, sec. 2.

#### Jurisdiction of Supreme Court.

Section 3. The jurisdiction of the supreme court shall extend over the state, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties. It shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to officers of the commonwealth whose jurisdiction extends over the state, but shall not exercise other original jurisdiction.

The supreme court shall have jurisdiction to review in all cases the action of other courts and until otherwise prescribed by law the manner of exercising such jurisdiction shall be that prescribed when this constitution becomes effective.

Corresponding provisions in—

- Constitution of 1790, Art. V, sec. 3.
- Constitution of 1838, Art. V, sec. 4.
- Constitution of 1874, Art. V, sec. 3.

#### Regulative Power and Duty of Supreme Court.

Section 4. The supreme court shall regulate procedure in courts of record and shall adapt the processes of justice to the necessities of all litigants.

**Art. V, Secs. 5, 6, 7, 8, 9**

In the discharge of these duties it may regulate forms of action, pleading and practice, the keeping of judicial records, and the conditions under which fees and costs may be remitted and counsel assigned without expense to litigants.

Regulations, when promulgated by the chief justice, shall have the force of law until modified by law and shall operate to repeal laws theretofore enacted inconsistent with such regulations.

Subject to law and to such regulations, courts of record shall have the power to make their own rules.

**Superior Court.**

Section 5. The superior court shall consist of seven judges learned in the law, chosen by the electors of the commonwealth. They shall hold office for twenty-one years and shall not again be eligible. The judge longest in continuous service shall be president judge.

**Jurisdiction of Superior Court.**

Section 6. Until otherwise prescribed by law, the superior court shall have the jurisdiction vested in it when this constitution becomes effective.

**Judicial Districts.**

Section 7. The state shall be divided by law into judicial districts. A county having fifty thousand inhabitants may constitute a separate district. No county shall be divided in the formation of a district and not more than four counties shall be included in a district.

Corresponding provisions in—

Constitution of 1790, Art. V, sec. 4.

Constitution of 1838, Art. V, sec. 3.

Constitution of 1874, Art. V, secs. 4, 5.

**Courts of Common Pleas.**

Section 8. In each county there shall be a court of common pleas consisting of one or more judges learned in the law, chosen by the electors of the judicial district in which the county is situated. They shall hold office for ten years. The judge longest in continuous service shall be the president judge. The office of associate judge not learned in the law is abolished, but associate judges in office when this constitution becomes effective shall hold office for their unexpired terms.

Corresponding provisions in—

Constitution of 1776, sec. 26.

Constitution of 1790, Art. V, secs. 2, 4.

Constitution of 1838, Art. V, sec. 2 (amended 1850), sec. 3.

Constitution of 1874, Art. V, secs. 4, 5, 15.

**Jurisdiction of Courts of Common Pleas.**

Section 9. The court of common pleas of each county shall have original jurisdiction in civil cases except where such jurisdiction shall be vested by law in other courts. It shall have power to issue



**Art. V, Secs. 10, 11, 12**

writs of certiorari to justices of the peace and to inferior courts not of record and, except where otherwise prescribed by law, shall have jurisdiction in appeals from justices of the peace. It shall have the chancery jurisdiction vested in the courts of common pleas when this constitution becomes effective.

In addition to the powers conferred in this section, and until otherwise prescribed by law, the courts of common pleas shall have the jurisdiction vested in them when this constitution becomes effective.

A judge of a court of common pleas shall be, in the county, a justice of the peace as to criminal matters.

Corresponding provisions in—

Constitution of 1776, sec. 24.

Constitution of 1790, Art. V, secs. 6, 8, 9.

Constitution of 1838, Art. V, secs. 3, 6, 8, 9.

Constitution of 1874, Art. V, secs. 9, 10, 20.

**Common Pleas Court in Philadelphia.**

Section 10. In the County of Philadelphia the jurisdiction of the several courts of common pleas shall be vested in one court of common pleas. Until otherwise prescribed by law, the court shall be composed of fifteen judges. The first judges shall be those holding office in the several courts of common pleas when this constitution becomes effective. The judge longest in continuous service shall be president judge.

**Criminal Courts.**

Section 11. In each county there shall be a court of oyer and terminer and general jail delivery and a court of quarter sessions of the peace. The judges of the court of common pleas of the county shall be the judges of such courts.

Corresponding provisions in—

Constitution of 1790, Art. V, sec. 5.

Constitution of 1838, Art. V, sec. 5.

Constitution of 1874, Art. V, sec. 9.

**Orphans' Courts.**

Section 12. In each county there shall be an orphans' court.

In a county having more than one hundred and fifty thousand inhabitants there may be a separate orphans' court with the jurisdiction of orphans' courts when this constitution becomes effective and with other jurisdiction as prescribed by law. Such courts shall consist of one or more judges learned in the law, chosen by the electors of the county. They shall hold office for ten years. The judge longest in continuous service shall be president judge.

In a county with a separate orphans' court, the register of wills of the county shall be the clerk thereof. He shall appoint assistant clerks only with the approval of the court. Accounts filed with him as register or as clerk shall be audited by the court without expense to the parties, unless the court shall appoint, in its discretion, an auditor nominated by all parties in interest represented in the proceeding.

## Art. V, Sec. 13

In a county without a separate orphans' court, the judges of the court of common pleas shall be the judges of the orphans' court, but only until the establishment of a separate orphans' court.

Corresponding provisions in—

Constitution of 1776, sec. 20.

Constitution of 1790, Art. V, sec. 7.

Constitution of 1838, Art. V, sec. 2 (amended 1850), sec. 7.

Constitution of 1874, Art. V, secs. 9, 15, 22.

### Justices of the Peace Not in Philadelphia.

Section 13. Each county, except the county of Philadelphia, shall be divided by its court of common pleas into justice of the peace districts. A borough, township or city with a population of fifty thousand or less shall not be divided. A district may be composed of two or more townships or boroughs or any borough or township may be attached to a district comprising all or a portion of a city. In a city with a population of more than fifty thousand, the number of inhabitants shall be divided by fifty thousand and the number of districts to which the city shall be entitled shall be the quotient. Population shall be determined by the latest United States decennial census. After each decennial census the court of common pleas may create new districts and may change the boundaries of districts. After any such revision of the districts, no new district shall be created and no change of boundary shall be made prior to the next decennial census.

In each district one justice of the peace shall be chosen by the electors at a municipal election. He shall have been a resident of his district for two years next preceding the election unless absent on the public business of the United States, of the state government or of a municipality of the commonwealth. He shall hold office for six years from the first Monday after his election. Upon petition of at least two hundred electors of the district setting forth a reasonable cause for his removal, he shall be removed from office by the court of common pleas if the court, after hearing, finds such cause to exist. In such event a justice of the peace may appeal to the superior court. A vacancy in the office of justice of the peace shall be filled by the governor.

For services rendered in judicial proceedings a justice of the peace shall receive a salary prescribed by law and paid by the county, and no other compensation. Fees, fines and penalties received in judicial proceedings by a justice of the peace shall be paid into the county treasury for the use of the county.

Until otherwise prescribed by law, justices of the peace in any county shall have the jurisdiction and powers of the justices of the peace of the county existing when this constitution becomes effective.

Justices of the peace in office when this constitution becomes effective shall serve their unexpired terms. On the expiration of such terms, the office of justice of the peace as theretofore existing is abolished. Vacancies occurring prior to the expiration of such terms shall not be filled.

Corresponding provisions in—

Constitution of 1776, sec. 30.

Constitution of 1790, Art. V, sec. 10.

Constitution of 1838, Art. VI, sec. 7.

Constitution of 1874, Art. V, sec. 11 (amended 1909), sec. 13.

Art. V, Secs. 14, 15, 16

### Justices of the Peace in Philadelphia.

Section 14. The county of Philadelphia shall be divided by its court of common pleas into eighteen justice of the peace districts as nearly equal in population as possible. After each United States decennial census, the court of common pleas may create new districts and may alter the boundaries of districts. After any such revision of the districts, no new district shall be created and no change of boundary shall be made prior to the next decennial census. The number of districts shall not exceed one for each one hundred thousand of population.

In each district one justice of the peace learned in the law shall be chosen by the electors of the district at a municipal election. His other qualifications, his term, and the method of his removal and of filling a vacancy in his office shall be as in the case of justices of the peace in other counties. For services rendered in judicial proceedings, he shall receive a salary prescribed by law and paid by the county and no other compensation. Fees, fines and penalties received in judicial proceedings by a justice of the peace shall be paid into the county treasury for the use of the county.

A justice of the peace shall hold a court not of record of police and civil causes. His jurisdiction in civil matters shall be limited to matters involving three hundred dollars or less and except as otherwise provided in this section shall be similar to that of justices of the peace in other counties. No political duties shall be imposed on him.

Rules of the procedure for the justices of the peace not inconsistent with law or with the regulations of the supreme court shall be prescribed by the court of common pleas of the county of Philadelphia. Magistrates in office when this constitution becomes effective shall serve their unexpired terms. On the expiration of such terms, the office of magistrate as theretofore existing is abolished. Vacancies occurring prior to the expiration of such terms shall not be filled.

The provisions of this section may be changed or abolished by law.

Corresponding provisions in—

Constitution of 1874, Art. V, sec. 12 (amended 1909), sec. 13.

### Judgeships to be Numbered.

Section 15. In every court composed of two or more judges required to be learned in the law, each judgeship shall, for the purpose of election or appointment thereto, be deemed a separate office and be distinguished by number from the other judgeships in the same court. Judgeships existing when this constitution becomes effective shall be taken to be numbered in the respective courts in the order of the seniority in commission of the judges occupying them.

### Determining Priority.

Section 16. Before two or more judges of the same court begin service on the same day, they shall cast lots to determine who shall

**Art. V, Secs. 17, 18, 19, 20**

be deemed first to have begun service and shall certify the result to the governor.

Corresponding provisions in—

Constitution of 1838, Art. V, sec. 2 (amended 1850).  
Constitution of 1874, Art. V, sec. 17.

**Residence of Judges.**

Section 17. The judges of the supreme court and of the superior court shall reside in the state. A judge of another court or a justice of the peace shall reside in the district for which he has been elected.

Corresponding provisions in—

Constitution of 1790, Art. V, sec. 4.  
Constitution of 1838, Art. V, sec. 2 (amended 1850).  
Constitution of 1874, Art. V, sec. 19.

**Compensation of Judges and of Justices of the Peace.**

Section 18. A judge or a justice of the peace required to be learned in the law shall receive for his services an adequate salary prescribed by law, and no other compensation. A judge required to be learned in the law shall be paid by the state government.

Corresponding provisions in—

Constitution of 1776, sec. 23.  
Constitution of 1790, Art. V, sec. 2.  
Constitution of 1838, Art. V, sec. 2 (amended 1850).  
Constitution of 1874, Art. V, sec. 18.

**Duties of Courts to be Judicial Only.**

Section 19. No duties shall be imposed on a court or judge except such as relate to the administration of justice, to the conduct of the business of the court, or to the conduct of elections. After the adjournment of the first session of the general assembly following the time when this constitution becomes effective, no powers of appointment shall be exercised by a court or judge except such as relate to their duties or to the management of public law libraries, the inspection and management of prisons, the visitation of public institutions, the condemnation of private property, and the administration of public trusts, of public parks or of public works. Other powers of appointment vested in a court or judge shall be abolished or vested elsewhere by law.

Corresponding provisions in—

Constitution of 1874, Art. V, sec. 21.

**Power to Change Venue.**

Section 20. The power to change the venue shall be vested in the courts and exercised as prescribed by law.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 23.

Art. V, Secs. 21, 22, 23, 24, 25

### Appeals to Supreme Court in Homicide Cases.

Section 21. A person sentenced for felonious homicide may remove the indictment, record and all proceedings to the supreme court for review.

Corresponding provisions in—

Constitution of 1790, Art. V, sec. 5.

Constitution of 1838, Art. V, sec. 5.

Constitution of 1874, Art. V, sec. 24.

### Appeals From Courts Not of Record.

Section 22. A person summarily convicted, or a party to a suit for a penalty before a justice of the peace or in a court not of record, may appeal to a court of record in the manner prescribed by law.

Corresponding provisions in—

Constitution of 1874 Art. V, sec. 14.

### Process and Indictments.

Section 23. The style of process shall be "The Commonwealth of Pennsylvania." Prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania. Indictments shall conclude "against the peace and dignity of the commonwealth of Pennsylvania."

Corresponding provisions in—

Constitution of 1776, sec. 27.

Constitution of 1790, Art. V, sec. 12.

Constitution of 1838, Art. V, sec. 11.

Constitution of 1874, Art. V, sec. 23. •

### Trial Without Jury.

Section 24. If the parties to a civil case shall agree to dispense with a trial by jury, the court shall hear the case and shall deliver a judgment having the same effect as if there had been such trial by jury.

Corresponding provisions in—

Constitution of 1874, Art. V, sec. 27.

### Employment of Counsel and Graded Costs.

Section 25. Laws shall be enacted, applicable to courts of record and to such other courts as may be deemed proper, providing that the counties shall compensate counsel assigned to serve without expense to litigants. The costs of litigation may be classified or graded by law according to the amounts in controversy.

Art. VI, Secs. 1, 2, 3, 4

## ARTICLE VI

### SUFFRAGE AND ELECTIONS.

#### Qualifications of Electors.

Section 1. A citizen of the commonwealth shall be entitled to vote at elections who has:

1. Reached the age of twenty-one;
2. Been a citizen of the United States at least thirty days;
3. Resided in the state immediately preceding the election for one year, or, if he is a native of the commonwealth or has been an elector, then for six months immediately preceding the election;
4. Resided for sixty days next preceding the election in the election district where he shall offer to vote;
5. Complied with the law regulating the registration of electors.

The right to vote and to hold office shall not be denied on account of race, color or sex.

Corresponding provisions in—

- Constitution of 1776, sec. 6.
- Constitution of 1790, Art. III, sec. 1.
- Constitution of 1838, Art. III, sec. 1.
- Constitution of 1874, Art. VIII, sec. 1 (amended 1901).

#### Residence of Electors.

Section 2. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence or to have lost it by reason of his absence while in the service of the United States, of the state government or of a municipality of the commonwealth, or while navigating the waters of the United States or the high seas, or while a student of an institution of learning, or while kept in an institution at public expense, or while confined in prison.

Corresponding provisions in—

- Constitution of 1874, Art. VIII, sec. 13.

#### Voting in Military or Naval Service.

Section 3. When an elector shall be absent in the military or naval service of the commonwealth or of the United States under a requisition by the President, he may vote as if he were present in his place of residence, subject to regulations prescribed by law.

Corresponding provisions in—

- Constitution of 1838, Art. III, sec. 4 (amended 1864).
- Constitution of 1874, Art. VIII, sec. 6.

#### Privilege of Electors.

Section 4. Electors shall, except in cases of treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

Corresponding provisions in—

- Constitution of 1790, Art. III, sec. 3.
- Constitution of 1838, Art. III, sec. 3.
- Constitution of 1874, Art. VIII, sec. 5.

## Art. VI, Secs. 5, 6, 7

## Election Offenses.

Section 5. A person who shall give, or promise or offer to give a valuable consideration or reward for a vote at an election or for the withholding thereof, or who shall receive or agree to receive, for himself or for another, a valuable consideration or reward for a vote at an election or for the withholding thereof, shall forfeit the right to vote at such election. An elector whose right to vote shall be challenged for such cause before the election officers shall be required to swear or affirm that the subject matter of the challenge is untrue before his vote shall be received.

A person convicted of wilful violation of an election law shall, in addition to the penalties prescribed by law, lose for four years the right to vote.

In a trial of a contested election and in an investigation of elections, no testimony shall be withheld on the ground that it may criminate the witness or subject him to infamy. Such testimony shall not afterwards be used against him in a judicial proceeding except in a prosecution for perjury in giving such testimony.

Corresponding provisions in—

Constitution of 1776, sec. 32.

Constitution of 1874, Art. VIII, secs. 8, 9, 10.

## Election Districts.

Section 6. Townships and wards of cities or boroughs shall form or shall be divided into election districts of compact and contiguous territory as the court of quarter sessions may direct.

An election district in a city of over one hundred thousand inhabitants shall be divided by the court of quarter sessions when at the next preceding election more than two hundred and fifty votes have been polled therein. Any other election district shall be divided when the court of quarter sessions shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.

Corresponding provisions in—

Constitution of 1874, Art. VIII, sec. 11.

## Election Officers.

Section 7. In each election district there shall be an election board consisting of a judge and two inspectors chosen by the electors of the district. They shall hold office for two years. Each elector may vote for one candidate for judge and for one candidate for inspector. Vacancies in election boards shall be filled and election boards in new districts shall be created as prescribed by law. Each inspector shall appoint one clerk at each election. An election officer or clerk shall be privileged from arrest upon days of election and while engaged in making up and transmitting returns, except upon warrant of a court of record or of a judge thereof for election fraud, for felony, or for wanton breach of the peace. In a city he shall be exempt from jury duty.

## Art. VI, Secs. 8, 9, 10, 11, 12

## Overseers of Elections.

Section 8. The courts of common pleas shall appoint two persons, of different political parties, qualified to serve on an election board, to be overseers of election in a district on petition of five electors of the county, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of the election. All the judges of the court able to act at the time shall concur in the appointment.

The overseers of election, if they shall agree, shall decide any question with respect to the conduct of the election on which the members of the election board shall differ.

Corresponding provisions in—

Constitution of 1874, Art. VIII, sec. 16.

## Time of Holding Elections.

Section 9. The general election shall be held in each even-numbered year and the municipal election shall be held in each odd-numbered year. Each shall be held on the Tuesday next following the first Monday in November unless, with the consent of two-thirds of the members of each house of the general assembly, a different day shall be prescribed by law.

Corresponding provisions in—

Constitution of 1874, Art. VIII, sec. 2 (amended 1909), sec. 3 (amended 1909, 1913).

## Secrecy in Voting.

Section 10. Elections by the citizens shall be by ballot or by other methods as prescribed by law. Secrecy in voting shall be preserved.

Corresponding provisions in—

Constitution of 1776, sec. 32.

Constitution of 1790, Art. III, sec. 2.

Constitution of 1838, Art. III, sec. 2.

Constitution of 1874, Art. VIII, sec. 4 (amended 1901).

## Trial of Contested Elections.

Section 11. The courts shall determine in the first instance contested elections of members of the general assembly, of governor, and of lieutenant governor. They shall finally determine all other contested elections. Laws shall be enacted designating the courts and judges by whom the several classes of election contests shall be tried, and regulating the manner of trial and matters incident thereto. No law assigning jurisdiction, or regulating its exercise, shall apply to a contest arising out of an election held before its enactment.

Corresponding provisions in—

Constitution of 1790, Art. III, sec. 2.

Constitution of 1838, Art. III, sec. 2.

Constitution of 1874, Art. VIII, sec. 17.

## Elections by Representative Bodies.

Section 12. Elections by representative bodies shall be viva voce.



Art. VII, Secs. 1, 2

## ARTICLE VII.

### PUBLIC SERVANTS.

#### Times of Elections.

Section 1. Judges elected by the electors of the commonwealth at large may be elected at general or municipal elections as prescribed by law.

Other officers elected by the electors of the commonwealth at large shall be elected at general elections.

Officers not elected by the electors of the commonwealth at large shall be elected at municipal elections.

Special election days to fill unexpired terms may be prescribed by law.

Corresponding provisions in—

Constitution of 1838, Art. VI, sec. 8.

Constitution of 1874, Art. XII, sec. 1 (amended 1909).

#### Incompatible Offices.

Section 2. No person shall be a member of the general assembly or shall hold under the state government or under a municipality an office or place of trust or profit in respect of which he shall receive compensation, if he is a member of the congress or if he holds under the United States an office or place of trust or profit in respect of which he shall receive compensation.

No person who holds the office of governor or, except as expressly provided in this constitution, of lieutenant governor shall hold under the state government or under a municipality another office of trust or profit.

No person who holds under the state government the office of judge learned in the law shall hold under a municipality an office or place of trust or profit in respect of which he shall receive compensation.

No member of the general assembly shall, during the term for which he has been elected, hold under the state government or under a municipality an appointive office or place of trust or profit.

The office of attorney-at-law and office in the militia shall not be deemed an office or place of trust or profit within the meaning of this section.

Laws may be enacted declaring what other offices or places of trust or profit are incompatible with each other or with membership in the general assembly.

Corresponding provisions in—

Constitution of 1776, secs. 7, 23.

Constitution of 1790, Art. I, sec. 18; Art. II, secs. 5, 8; Art. V, sec. 2.

Constitution of 1838, Art. I, sec. 19; Art. II, sec. 5; Art. V, sec. 2 (amended 1850); Art. VI, sec. 8.

Constitution of 1874, Art. II, sec. 6; Art. IV, sec. 6; Art. V, sec. 18; Art. VIII, sec. 15; Art. XII, sec. 2.

## Art. VII, Secs. 3, 4

## Disqualifications From Holding Office.

Section 3. No person shall be a member of the general assembly or shall hold, under the state government or under a municipality, an office or place of trust or profit if he has:

- (a) Been convicted of embezzlement of public money, of bribery, of attempted bribery, of perjury or other infamous crime, or of fraud in connection with an election while a candidate for office, or for wilful violation of an election law while a candidate for office;
- (b) Been convicted of having within five years, being a member of the general assembly or an officer of the state government, used the money of the state government for an unauthorized purpose or made a profit therefrom;
- (c) Been convicted upon impeachment;
- (d) Served as an election officer at the election at which such position of member of the general assembly or office or place of trust or profit was filled, except in the case of such municipal offices, other than county or city offices, as may be prescribed by law.

Corresponding provisions in—

Constitution of 1776, secs. 19, 32.

Constitution of 1874, Art. II, sec. 17; Art. III, sec. 32; Art. IV, sec. 3; Art. VII, sec. 1; Art. VIII, secs. 9, 15; Art. IX, sec. 14.

## Official Oath.

Section 4. Members of the general assembly, officers of the state government and county officers shall, before entering on the duties of their offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States and the constitution of the commonwealth, and that I will discharge the duties of my office with fidelity."

The foregoing oath shall be administered by a person authorized to administer oaths. In the case of judges of the supreme court and of the superior court and of executive officers of the state government, the oath shall be filed in the office of the secretary of the commonwealth. In the case of other judicial officers and of county officers, the oath shall be filed in the office of the prothonotary of the county in which it is taken. A person refusing to take such oath or affirmation shall forfeit his office. A person who shall be convicted of having sworn or affirmed falsely, or of having violated such oath or affirmation, shall be guilty of perjury, and shall be forever disqualified from holding any office of trust or profit in the commonwealth. The oath shall be administered to a member of the general assembly by a judge of the supreme court or of a court of common pleas, in the hall of the house to which the affiant has been elected.

Corresponding provisions in—

Constitution of 1776, secs. 10, 40.

Constitution of 1790, Art. VIII.

Constitution of 1838, Art. VIII.

Constitution of 1874, Art. VII.

## Art. VII, Secs. 5, 6, 7, 8

**Extension of Term and Change of Compensation.**

Section 5. The term of a public officer shall not be extended and his compensation shall not be increased or decreased after his election or appointment except that the compensation of a judge required to be learned in the law may be increased.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 13.

**Impeachment.**

Section 6. All officers of the state government shall be liable to impeachment for a misdemeanor in office. The power of impeachment shall be vested in the house of representatives. An impeachment shall be tried by the senate after each senator has been put on special oath or affirmation. The person impeached can be convicted only with the consent of two-thirds of the senators present. Such conviction shall operate to remove from office the person convicted and to disqualify him from holding a public office or place of trust or profit, but shall extend no further. The person impeached, whether acquitted or convicted, may be liable to indictment, trial, judgment and punishment as prescribed by law.

Corresponding provisions in—

Constitution of 1776, sec. 2.

Constitution of 1790, Art. IV, secs. 1, 2, 3.

Constitution of 1838, Art. IV, secs. 1, 2, 3.

Constitution of 1874, Art. VI, secs. 1, 2, 3.

**Removal Otherwise Than by Impeachment.**

Section 7. An officer who shall be convicted of an infamous crime or of a crime the commission of which involves the violation of an obligation imposed on him as an officer, shall thereby forfeit his office and shall be otherwise punished as prescribed by law.

Appointed officers, other than judges of courts of record, may be removed at the pleasure of the appointing power.

Elected officers of the state government, except the governor, the lieutenant governor, and judges of the courts of record, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the senate.

Judges of courts of record, other than the judges of the supreme and superior courts, may be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of each house of the general assembly.

Corresponding provisions in—

Constitution of 1790, Art. V, sec. 2.

Constitution of 1838, Art. V, sec. 2; Art. VI, sec. 9.

Constitution of 1874, Art. V, sec. 15; Art. VI, sec. 4.

**Appointments and Promotions.**

Section 8. Appointments and promotions in the civil service of the state government and of municipalities shall be according to merit and fitness to be ascertained, so far as practicable, by competitive examination.

Art. VII, Sec. 9; Art. VIII, Secs. 1, 2

### Bribery.

Section 9. A member of the general assembly, or an officer or employe of the state government or of a municipality, who shall receive or agree or offer to receive for himself or for another any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof to influence the performance of a public duty, or a person who shall give or promise or offer to give any money, or thing of value, testimonial, privilege, or personal advantage to a member of the general assembly or to an officer or employe of the state government or of a municipality, to influence him in the performance of a public duty, shall be guilty of bribery, and shall be punished as prescribed by law.

In a prosecution for bribery or attempted bribery, or in an investigation thereof, no witness except the accused shall be permitted to withhold his testimony on the ground that it may criminate him or subject him to infamy. Such testimony shall not afterwards be used against the witness in a judicial proceeding except in a prosecution for perjury in giving such testimony.

Corresponding provisions in—

Constitution of 1874, Art. III, secs. 29, 30, 31, 32.

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## ARTICLE VIII.

### TAXATION AND FINANCE.

#### Method of Taxation.

Section 1. Taxes shall be levied and collected only as prescribed by general law. A tax shall be uniform upon the same class of subjects within the territorial limits of the taxing authority, except that an income or a decedent's estate below a minimum prescribed by law may be exempted from income and inheritance taxes.

Laws may be enacted providing for the levying and collecting of a special tax on anthracite coal when prepared for market. An appropriation not exceeding the amount of the proceeds of such tax may be made by law for the relief of persons, corporations, associations and municipalities injured or damaged by surface subsidence resulting from past or future mining of anthracite coal.

Corresponding provisions in—

Constitution of 1874, Art. IX, sec. 1.

#### Exemption From Taxation.

Section 2. Laws may exempt from taxation only public property used for public purposes, places used for religious worship, places of burial not used or held for private profit, and institutions of purely public charity. Private property used for a part or all of

**Art. VIII, Secs. 3, 4, 5, 6**

the time for educational purposes shall only be exempted if the basic language of instruction is English and if the educational standards are as high as in the public institutions with which it is intended to compete.

Corresponding provisions in—

Constitution of 1874, Art. IX, secs. 1, 2.

**Power to Tax Not to be Surrendered.**

Section 3. The power to tax shall not be surrendered or suspended by contract or grant.

Corresponding provisions in—

Constitution of 1874, Art. IX, sec. 3.

**Limitation on State Debt.**

Section 4. A debt shall be created by the state government only to supply casual deficiencies of revenue not exceeding one million dollars, to repel invasion, to suppress insurrection, to defend the commonwealth in war, to pay existing debts, to improve and rebuild highways in the state and to acquire land in the state for forest purposes. A debt for highways shall not be incurred in excess of one hundred and fifty million dollars, or for forest purposes in excess of twenty-five million dollars. A debt for highway or forest purposes shall be created only with the consent of two-thirds of each house of the general assembly and with the consent of a majority of the electors of the commonwealth voting on the question; except that the adoption of this constitution by the electors shall be taken to authorize a law providing for the issuance of bonds for forest purposes not in excess of three million, one hundred and twenty-five thousand dollars annually for eight years.

Corresponding provisions in—

Constitution of 1858, Art. XI, secs. 1, 2 (amended 1857).

Constitution of 1874, Art. IX, sec. 4 (amended 1918).

**Law Shall State Purpose of Loan.**

Section 5. A law authorizing the borrowing of money by the state government shall specify the purpose of the loan. The money borrowed shall be used only for such purpose.

Corresponding provisions in—

Constitution of 1858, Art. XI, secs. 1, 2 (amended 1857).

Constitution of 1874, Art. IX, sec. 5.

**Amortization of State Debt.**

Section 6. The state government shall not incur a debt maturing more than fifty years thereafter.

If serial bonds are issued for a debt, the aggregate amount of principal and interest payable in respect to the debt in any year shall not be less than the amount payable in any later year.

## Art. VIII, 7, 8, 9, 10, 11

If serial bonds are not issued, the state government shall maintain by law a sinking fund sufficient to pay the accruing interest on such debt and annually to reduce the principal by a sum not less than three per centum of such principal. The money of the sinking fund shall be invested only in the bonds of the United States or of the state government.

Corresponding provisions in—

Constitution of 1838, Art. XI, sec. 4 (amended 1857).

Constitution of 1874, Art. IX, secs. 11, 12.

### State Credit Not to be Pledged.

Section 7. The state government shall not pledge or lend its credit to an individual, corporation or association and shall not become a stockholder or an owner in a corporation or association.

Corresponding provisions in—

Constitution of 1838, Art. XI, sec. 5 (amended 1857).

Constitution of 1874, Art. IX, sec. 6.

### Municipal Debt Not to be Assumed by State.

Section 8. The state government shall not assume the debt of a municipality unless contracted to enable the commonwealth to repel invasion, to suppress insurrection or to defend itself in war.

Corresponding provisions in—

Constitution of 1838, Art. XI, sec. 6 (amended 1857).

Constitution of 1874, Art. IX, sec. 9.

### Reserve Funds.

Section 9. The money held as necessary reserve by the state government shall be limited by law to the amount required for current expenses and shall be secured and kept as prescribed by law. Monthly statements shall be published showing the amount of such money, where it is deposited, and how it is secured.

### Paying Out Public Money.

Section 10. Money shall be paid out of the state treasury only on appropriations made by law and on warrant by the proper officer in pursuance thereof.

### Misuse of Public Money.

Section 11. An officer or an employe of the state government or of a municipality or a member of the general assembly who shall make or attempt to make a profit out of the money of the state government or of a municipality or shall use it for an unauthorized purpose, shall be guilty of a misdemeanor and shall be punished as prescribed by law.

Art. IX, Secs. 1, 2, 3, 4

## ARTICLE IX.

### CORPORATIONS.

#### Corporate Powers.

Section 1. A corporation shall engage only in the business authorized by its charter.

Corresponding provisions in—  
Constitution of 1874, Art. XVI, sec. 6.

#### Stocks and Bonds

Section 2. Subject to such regulations as to issue and sale as may be prescribed by law or by an agency established by law, shares of stock may be issued with or without par value. Shares of stock having par value shall be issued as full paid only for the equivalent of such par value in money, labor done or property received, except that a corporation may issue additional full paid shares as prescribed by law or by an agency created by law for a consideration in money, labor or property equal to the current market value of its shares theretofore issued. Neither the stock nor the indebtedness of corporations shall be increased except in pursuance of general law or without the consent of the holders of the larger amount in value of the stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.

Corresponding provisions in—  
Constitution of 1874, Art. XVI, sec. 7.

#### Investment of Trust Funds.

Section 3. No law shall authorize fiduciaries to invest in stock or securities issued by a corporation except in bonds approved by an agency created by law.

Corresponding provisions in—  
Constitution of 1874, Art. III, sec. 22.

#### Bank Notes and Bills.

Section 4. A note or bill issued for circulation by a banking corporation shall be registered and countersigned by an officer of the state government, and its payment shall be secured by the deposit of security to the full amount thereof with the state treasurer. The method of registering, countersigning and securing payment shall be prescribed by law.

Corresponding provisions in—  
Constitution of 1874, Art. XVI, sec. 9.

Art. IX, Secs. 5, 6, 7, 8, 9, 10

### Cumulative Voting.

Section 5. In elections for directors or managers of a corporation each member or voting stockholder may cast his votes for one candidate, or may distribute them among two or more candidates.

Corresponding provisions in—

Constitution of 1871, Art. XVI, sec. 4.

### Foreign Corporations.

Section 6. A foreign corporation shall not do business in this state without having in the state a known place of business and without making the secretary of the commonwealth an agent of the corporation upon whom process may be served.

Corresponding provisions in—

Constitution of 1874, Art. XVI, sec. 5.

### Commonwealth's Rights of Eminent Domain and Police Power.

Section 7. The exercise of the right of eminent domain shall not be abridged or so constructed as to prevent the taking by law of the property and franchises of corporations and subjecting them to public use the same as the property of individuals. The exercise of the police power shall not be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

Corresponding provisions in—

Constitution of 1874 Art. XVI, sec. 3.

### Corporate Obligations Owned by State.

Section 8. Except as prescribed by law, an obligation of a corporation held or owned by the state government shall not be exchanged, transferred, remitted, postponed, diminished or discharged except by payment thereof into the state treasury.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 24.

### Statutes of Limitations.

Section 9. No law shall discriminate between corporations and individuals with respect to the time in which suit may be brought against either.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 21 (amended 1915).

### Revocation and Alteration of Corporate Charters.

Section 10. Laws may be enacted for the alteration, revocation, or annulment of corporate charters revocable when this constitution becomes effective or thereafter granted when such charters



Art. IX, Secs. 11, 12, 13; Art. X, Secs. 1, 2

shall be deemed injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done.

Corresponding provisions in—

Constitution of 1838, Art. 1, secs. 25, 26 (sec. 26 amended 1857).

### Conditions Imposed on Benefits to Corporations.

Section 11. No law shall remit the forfeiture of the charter of a corporation now existing, or amend the same, or otherwise benefit such corporation, except upon condition that it shall thereafter hold its charter subject to the provisions of this constitution.

Corresponding provisions in—

Constitution of 1874, Art. XVI, sec. 2.

### Banks and Trust Companies.

Section 12. Laws may be enacted to provide for the incorporation of banks and trust companies and to prescribe the powers thereof.

Corresponding provisions in—

Constitution of 1838, Art. 1, sec. 25.

Constitution of 1874, Art. XVI, sec. 11.

### Definition of "Corporation."

Section 13. The term "corporation" as used in this constitution includes joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Corresponding provisions in—

Constitution of 1874, Art. XVI, sec. 13.

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## ARTICLE X.

### PUBLIC UTILITIES.

#### Regulation of Public Utilities.

Section 1. Public service and the business of those therein may be regulated by law or by an agency created by law.

#### Eminent Domain.

Section 2. A corporation, association, individual or municipality invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed. The compensation shall be paid or secured before such taking, injury or destruction. No law shall deprive a person of an

## Art. X, Secs. 3, 4, 5

appeal from a preliminary assessment of damages, and, on appeal, either party may have the damages assessed by a jury according to the course of the common law.

Corresponding provisions in—

Constitution of 1838, Art. VII, sec. 4.

Constitution of 1874, Art. XVI, sec. 8.

### Common Carriers, Telegraph and Telephone Lines.

Section 3. Railroads and canals shall be public highways and railroad and canal corporations shall be common carriers. Such corporations may construct and operate railroads and canals between any points within the state and may cross and connect with other railroads and canals within the state and at the state line. They shall receive, at connecting points, and shall transport, each other's passengers and freight without delay or discrimination. Railroad corporations shall receive at connecting points and transport each other's cars and canal corporations shall likewise receive and transport each other's vessels.

A corporation organized for the purpose shall have the right to construct lines of telegraph and telephone within the state. The owners or operators of telegraph or telephone lines may connect them with the telegraph and telephone lines of others. They shall receive at connecting points and shall transmit each other's messages.

The rights and obligations set forth in this section shall be exercised only as prescribed by law or by an agency created by law.

Corresponding provisions in—

Constitution of 1874, Art. XVI, sec. 12; Art. XVII, sec. 1.

### Construction of Canals to Conform to Fixed Standards.

Section 4. Provision shall be made by law for the construction of canals in accordance with standards prescribed by law or by an agency created by law.

### No Discrimination in Services or Charges.

Section 5. All individuals, associations and corporations shall have equal rights to have persons and property transported over railroads and canals and to have messages transmitted over telegraph and telephone lines. There shall be no undue or unreasonable discrimination, in facilities or charges, for such transportation or transmission within the state or coming from or going to another state. A charge for such transportation or transmission within the state shall not exceed the charge for a similar service in the same direction to a more distant point, but excursion or commutation tickets may be issued at special rates.

Corresponding provisions in—

Constitution of 1874, Art. XVII, sec. 3.

Art. X, Secs. 6, 7, 8, 9, 10

### Preferences and Rebates Prohibited.

Section 6. No discrimination in charges or facilities for transportation shall be made between transportation corporations and individuals, or in favor of either, by abatement, drawback or otherwise, and no railroad or canal corporation, or any lessee, manager or employe thereof, shall make preferences in furnishing service.

Corresponding provisions in—

Constitution of 1871, Art. XVII, sec. 7.

### Consolidation Permitted.

Section 7. A public service corporation, when authorized by law or by an agency created by law, may consolidate with another public service corporation or may acquire its stock, property or franchises.

Corresponding provisions in—

Constitution of 1874, Art. XVII, sec. 4.

### Powers of Common Carriers.

Section 8. A corporation being a common carrier shall not transport over facilities which it owns or operates articles which it has directly or indirectly mined or manufactured for sale.

It shall engage only in the business of a common carrier, except that if it uses electricity as a motive power, it may, when authorized by an agency created by law, furnish electricity to others for light, heat or power.

A mining or manufacturing corporation shall not be deemed a common carrier for the purposes of this section by reason of carrying its products on its railroad or canal not exceeding fifty miles in length.

Corresponding provisions in—

Constitution of 1874, Art. XVII, sec. 5.

### Passes Prohibited.

Section 9. A corporation being a common carrier shall not grant free passes or reduced rates to any person except to its own officers or employes.

Corresponding provisions in—

Constitution of 1874, Art. XVII, sec. 8.

### Water Rights.

Section 10. A right in waters shall not be granted by the state government or by a municipality for more than fifty years or without reasonable compensation.

At the expiration of the first or of any subsequent grant, the state government or the municipality shall make a new grant to the holder of the right, or pay, or cause to be paid, compensation for all property

Art. X, Sec. 11; Art. XI, Secs. 1, 2, 3, 4

necessary to the exercise of the right and upon such payment title to said property shall vest in the state government or municipality or corporation making the payment.

### Enforcement of This Article.

Section 11. Laws shall be enacted to enforce the provisions of this article.

Corresponding provisions in—

Constitution of 1874, Art. XVII, sec. 12.

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## ARTICLE XI.

### EDUCATION.

#### Educational System of the Commonwealth.

Section 1. Laws shall be enacted providing for the operation and maintenance of a public educational system for the commonwealth. This shall include public schools for the elementary, secondary and vocational education of all children of the commonwealth, for the free mental and vocational education of persons under mental or physical disability, for the free education in American citizenship of adults, and for the training of teachers, a system of public libraries, one or more public universities, and such other public educational institutions and agencies as may be wise and necessary for the improvement of the citizenship of the commonwealth.

Corresponding provisions in—

Constitution of 1776, sec. 44.

Constitution of 1790, Art. VII, sec. 1.

Constitution of 1838, Art. VII, sec. 1.

Constitution of 1874, Art. IX, sec. 1.

#### State Council of Education.

Section 2. Laws shall be enacted providing for a state council of education appointed by the governor. The council shall have the powers and duties prescribed by law. Its chief executive officer shall be the commissioner of education.

#### Support of Educational System.

Section 3. Laws shall be enacted making adequate provision by appropriation and through general or special forms of taxation for the effective and equitable support of the public educational system of the commonwealth.

#### No Appropriations to Sectarian Institutions.

Section 4. Money raised for the support of the public educational system of the commonwealth shall not be appropriated to or used for the support of any sectarian school or institution.

Art. XI, Secs. 5, 6; Art. XII, Secs. 1, 2, 3, 4

### State School Fund.

Section 5. The net receipts from state forests, unclaimed funds derived by the commonwealth either by escheat or otherwise, and money or property designated for the purpose and derived from any source shall constitute the state school fund to be used only for the benefit of the public educational system of the commonwealth in such manner as may be prescribed by law.

### Basic Instruction to be in English.

Section 6. The basic instruction in public and private schools shall be given in the English language and from English texts.

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## ARTICLE XII.

### SOCIAL WELFARE AND PUBLIC HEALTH.

#### Charitable Institutions and Agencies.

Section 1. Laws shall be enacted providing for the maintenance of an efficient system of institutions and agencies to care for residents of the commonwealth who cannot care for and support themselves on account of physical or mental infirmities or other misfortune and to prevent such infirmities and misfortunes so far as possible.

#### Penal and Correctional Institutions.

Section 2. Laws shall be enacted providing for the maintenance of an efficient system of penal and correctional institutions and agencies.

#### Employment and Treatment of Prisoners.

Section 3. Humanity, sound public economy and just consideration for the innocent dependents of persons deprived of their liberty, by judgment, decree or sentence of any court, require that all such persons should, during their imprisonment, be afforded an opportunity for remunerative labor, and the conditions of imprisonment shall always be such as to promote the physical, mental and moral welfare of the prisoner. Such laws shall accordingly be enacted as may be necessary to give effect to this provision.

#### Supervision of Charitable, Correctional and Penal Institutions and Agencies.

Section 4. Charitable, correctional and penal institutions and agencies and other institutions and agencies for the care, relief or treatment of persons having physical or mental infirmities, shall be

Art. XII, Sec. 5; Art. XIII, Secs. 1, 2, 3, 4

subject to governmental inspection and supervisory control. The power to enforce the laws with respect to such institutions shall be vested in one or more departments of the state government or in such agencies as may be prescribed by law.

### Health.

Section 5. The protection and promotion of the public health under modern social, economic and industrial conditions is essential to the well-being of the commonwealth and is hereby declared to be a primary duty of government.

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## ARTICLE XIII.

### MUNICIPALITIES.

#### Definition.

Section 1. Municipalities shall be counties, cities, boroughs, townships, school districts, poor districts and other divisions of the commonwealth for the purpose of local government.

#### Classification.

Section 2. Municipalities may be classified upon the basis of conditions requiring special regulation. The classification of municipalities according to population shall not divide cities, counties or school districts into more than seven classes or other municipalities into more than five classes. A class must contain more municipalities than one except where the basis of classification is population or the coincidence of the boundaries of two or more municipalities.

A law otherwise general shall not be local because applicable only to municipalities adopting it.

#### Proportional Representation.

Section 3. Proportional representation may be prescribed by law for the election of representative bodies in municipalities in which that method of election shall be approved by a majority of the electors voting on the question.

#### New Counties.

Section 4. A new county shall not be established if it would have less than three hundred square miles and fifty thousand inhabitants or if a line thereof would pass within ten miles of the boundary of the county seat of a county proposed to be divided or if its establishment would reduce another county below such area or population. A

Art. XIII, Secs. 5, 6, 7, 8, 9

new county shall not be established without the consent of a majority of the electors resident within the proposed boundaries thereof voting on the question.

Corresponding provisions in—

Constitution of 1838, Art. XII, (Amended 1857).

Constitution of 1874, Art. XIII, sec. 1.

### City Charters.

Section 5. Laws may be enacted giving to cities or to cities of a particular class, authority to frame, adopt and amend charters for their organization and government.

### Creation and Change of Boundaries of Cities and Boroughs.

Section 6. A city or borough shall not be established or its boundaries changed except with the consent of a majority of the electors resident within the proposed boundaries voting on the question, and of a majority of the electors in the proposed added or excluded area voting on the question.

Corresponding provisions in—

Constitution of 1874, Art. XV, sec. 1.

### Appointive Municipal Officers.

Section 7. Appointive officers in counties, cities, boroughs and townships shall be appointed by an officer or agency of the municipality as prescribed by law, except as in this constitution otherwise provided.

### Accountability of Municipal Officers.

Section 8. Laws shall be enacted providing for the strict accountability of municipal officers, as well for the fees which may be collected by them as for all public or municipal moneys which may be paid to them.

Corresponding provisions in—

Constitution of 1874, Art. XIV, sec. 6.

### County Officers.

Section 9. The officers of a county shall be three commissioners, three auditors or a controller, a sheriff, a coroner, a prothonotary, a register of wills, a recorder of deeds, a treasurer, a surveyor, a clerk of the orphans' court, a clerk of the court of quarter sessions of the peace and of the court of oyer and terminer and general jail delivery, a district attorney, and other officers prescribed by law.

In a county co-extensive with a city or included therein, any constitutional county office may be abolished by law and its duties and powers may be transferred to a city officer or officers.

Corresponding provisions in—

Constitution of 1874, Art. XIV, sec. 1.

Art. XIII, Secs. 10, 11, 12, 13

### Election of Certain County Officers.

Section 10. Except as in this constitution expressly provided, county officers shall be chosen by the electors of the county. Each shall hold office for four years from the first Monday of January succeeding his election or until his successor shall qualify. Vacancies shall be filled as prescribed by law. The sheriff and the treasurer shall not be eligible for the succeeding term.

Corresponding provisions in—

Constitution of 1776, sec. 31.

Constitution of 1790, Art. VI, sec. 1.

Constitution of 1838, Art. VI, secs. 1, 3.

Constitution of 1874, Art. XIV, secs. 1, 2 (Amended 1909).

### County Commissioners and County Auditors.

Section 11. Three county commissioners shall be elected in each county in the year 1923, one to serve for two years and two to serve for four years. Every four years thereafter, two commissioners shall be elected to serve for four years. In the year 1925 and every four years thereafter, one commissioner shall be elected to serve for four years. An elector shall vote for one candidate for commissioner except in the year 1923, when he shall vote for one candidate to serve for two years and for one candidate to serve for four years. A vacancy in the office of commissioner shall be filled by the governor by the appointment of an elector of the county who has voted for the commissioner whose place is to be filled. In a county having auditors, they shall be elected and vacancies in the office of auditor shall be filled as in the case of commissioners.

Corresponding provisions in—

Constitution of 1874, Art. XIV, sec. 7 (Amended 1909).

### Philadelphia Prothonotary.

Section 12. The prothonotary of the county of Philadelphia shall be appointed by the judges of the court of common pleas of the county. He shall hold office for three years, but may be removed at the pleasure of the court. He shall appoint assistants only with the approval of the court. The salaries of the prothonotary and of his assistants shall be paid by the county.

Corresponding provisions in—

Constitution of 1874, Art. V, sec. 7.

### Residence of County Officers.

Section 13. An appointive county officer shall have been a citizen and resident of the county for one year before his appointment, if the county has been so long established, but if it has not been so long established, then within the limits of the county or counties out of which it has been taken.

Corresponding provisions in—

Constitution of 1874, Art. XIV, sec. 3.



Art. XIII, Secs. 14, 15, 16, 17

### **Certain County Officers to Keep Offices in County Seat.**

Section 14. The prothonotary, the clerk of the orphans' court, the clerk of the court of quarter sessions of the peace and of the court of oyer and terminer and general jail delivery, the recorder of deeds, the register of wills, the surveyor, and the sheriff shall keep their offices in the county seat.

Corresponding provisions in—

Constitution of 1776, sec. 34.

Constitution of 1790, Art. V, sec. 11; Art. VI, sec. 3.

Constitution of 1838, Art. V, sec. 10; Art. VI, sec. 4.

Constitution of 1874 Art. XIV, sec. 4.

### **Compensation of County Officers.**

Section 15. County officers shall be paid only by salary for services performed for the state government or for the county or for any other official service. Except as otherwise provided in this constitution, such salaries shall be prescribed by law. Fees received by county officers shall be paid into the treasury of the county or into the state treasury as prescribed by law.

Corresponding provisions in—

Constitution of 1874, Art. XIV, sec. 5.

### **Salaries and Expenses of County Officers in a County Co-Extensive With a City.**

Section 16. In a county co-extensive with a city or included therein, the county treasury and the city treasury shall be united in a single city treasury. The funds and obligations of the county shall be those of the city. The officers of the state government or of the county whose salaries or the expenses of whose offices or courts shall be paid in whole or in part by the city, shall at such times as may be required in the case of city offices submit to the chief executive of the city estimates of their needs. The city shall control the amount to be expended for such salaries and expenses except salaries prescribed by law, and the expenses of the courts of common pleas and of the orphans' courts.

### **Municipal Borrowing Capacity.**

Section 17. A municipality may incur debt by borrowing money as prescribed by law if its aggregate debt for borrowed money would not then exceed the sum of:

(a) Ten per centum of the assessed value of the property therein taxable by or for the benefit of the municipality.

(b) An amount equal to that capital sum which, at the legal rate of interest and at such amortization charges as shall be prescribed by law would yield an amount equal to the net revenue derived by the municipality during the last preceding fiscal year from its public improvements.

## Art. XIII, Sec. 18

(c) The amount of debt secured by liens on public improvements and imposing no obligation on the municipality, if the net revenue derived from such improvements has not been taken into account under paragraph (b).

(d) So much of any debt incurred within five years to acquire public improvements as shall be likely to be allowable under paragraph (b) within six years thereafter, if the net revenue derived from such improvements has not been taken into account under paragraph (b), and if such debt has not been taken into account under paragraph (c).

(e) The par value of the evidences of debt of the municipality owned by it and pledged toward the payment of the principal of its debt.

(f) The amount of cash and the marked value of investments owned by the municipality and the amount of the collectible debts due or to fall due owned by the municipality, in so far as such assets are pledged toward the payment of the principal of its debt.

(g) Eighty per centum of the amount which it is estimated as prescribed by law that the municipality will receive within five years from assessments against property benefited by public improvements, if such amount is pledged toward the payment of the principal of its debt and if it has not been taken into account under paragraph (f).

An indebtedness incurred by a municipality in excess of three per centum of the assessed value of the taxable property therein shall be approved by a majority of the electors thereof at a public election held as prescribed by law.

The term "incur debt," as used in this section, shall include an incurrence of new indebtedness, an extension of the maturity of a debt, a deferment of the payment of a debt, a change in the form of a debt, and an assumption of a debt.

A debt shall be deemed to be incurred at the time the obligation to pay is entered into or the contract to extend, defer, change or assume an existing debt is made.

Corresponding provisions in—

Constitution of 1874, Art. IX, secs. 8 (Amended 1911 and 1915), 15.

### Duration and Payment of Debts.

Section 18. A municipality shall not incur a debt maturing more than fifty years thereafter. The aggregate amount of principal and interest payable in respect of a debt in any year shall not be less than the amount payable in any later year unless the sinking fund method of amortization is authorized by law. Such sinking fund shall be sufficient to pay the accruing interest on such debt and annually to reduce the principal by a sum not less than three per centum of such principal. The money in such sinking fund shall be invested in the bonds of the United States, of the state government or of a municipality thereof.

**Art. XIII, Secs. 19, 20, 21, 22, 23**

On or before incurring a debt by borrowing money, the municipality shall provide for the collection of an annual tax sufficient to pay the principal and interest as they fall due.

Corresponding provisions in—

Constitution of 1874, Art. IX, secs. 8 (Amended 1911 and 1915), 10, 15;  
Art. XV, sec. 3.

**Debts Other Than for Money Borrowed.**

**Section 19.** A municipality shall not incur a debt otherwise than by the borrowing of money unless there has been an appropriation to pay the debt.

Corresponding provisions in—

Constitution of 1874, Art. XV, sec. 2.

**Municipalities Not to Pledge Credit.**

**Section 20.** A municipality shall not pledge or lend its credit to a corporation, association or individual and shall not be a stockholder or owner in a corporation or association. Except to discharge municipal liabilities, it shall not appropriate money to assist a private business enterprise.

The provisions of this section shall not be construed to apply to the lease by a municipality to a corporation of a public service facility for a rental dependent on the earnings of the lessee if the corporation covenants to operate the facility and an agency created by law to regulate public utilities approves the lease.

Corresponding provisions in—

Constitution of 1838, Art. XI, sec. 7 (Amended 1857).  
Constitution of 1874, Art. IX, sec. 7.

**Special Commissions Prohibited.**

**Section 21.** No law shall delegate to a special commission, corporation or association power to perform a municipal function or to make, supervise or interfere with a municipal improvement, or with municipal property or money, whether held in trust or otherwise.

Corresponding provisions in—

Constitution of 1874, Art. III, sec. 20.

**Assessments of Benefits for Public Improvements.**

**Section 22.** Laws may be enacted authorizing assessments against properties which are specially and particularly benefited by public improvements made by the state government or by a municipality, whether or not such properties abut upon such public improvements.

**Extent of Land Permitted to be Taken for Public Improvements.**

**Section 23.** When the public purpose for which land is taken can best be attained by acquiring more land than the state government or the municipality proposes to retain, the state government or the

Art. XIII, Secs. 24, 25, 26, 27; Art. XIV, Sec. 1

municipality, subject to regulations prescribed by law, may take all the land which in its judgment is needed for the attainment of such purpose and may dispose of portions thereof, subject to restrictions protective of the public purpose.

### Zoning of Municipalities.

Section 24. Municipalities may be authorized by law to promote the general welfare by regulating the location, size and use of buildings. For the purpose of such regulations, a municipality may divide its territory into districts, to each of which special regulations may be applied.

### Contracts Between Municipalities.

Section 25. A municipality may, as prescribed by law, contract with one or more municipalities for the joint acquisition, construction, maintenance, supervision or operation of public property, for the creation of agencies to effect any of such purposes, and for the creation of such agencies as may be mutually agreed upon for the good government of the municipalities. Such agencies shall not levy taxes or borrow money. Every such contract shall name arbitrators.

### Street Passenger Railways in Cities, Boroughs or Townships.

Section 26. A street passenger railway shall not be constructed in a city, borough or township except with the consent of the municipality.

The provisions of this section shall not be construed to permit a restriction on the power of the state government to regulate the operation of such a railway.

Corresponding provisions in—  
Constitution of 1874, Art. XVII, sec. 9.

### One Place of Paying Taxes in Cities and Boroughs.

Section 27. Laws shall be enacted to enable a taxpayer in each city and borough to pay all municipal taxes at one office.

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## ARTICLE XIV.

### AMENDMENT AND REVISION.

#### Amendments.

Section 1. An amendment to this constitution may be proposed in the general assembly. If agreed to by a majority of the members elected to each house, it shall be entered on the journals with the names of the members voting for and of those voting against, and

## Art. XIV, Sec. 2; Concl. Sec.

the secretary of the commonwealth shall cause it to be published once a week for four weeks immediately preceding the next general election in at least two newspapers in every county in which newspapers shall be published. If it shall be likewise agreed to by the next general assembly, the secretary of the commonwealth shall cause it to be published in the manner aforesaid for four week immediately preceding the first general or municipal election which shall first occur not less than three months after such agreement, and it shall be submitted at such election to the electors of the commonwealth in such manner as the general assembly shall prescribe. If it shall be approved by a majority of the electors voting thereon, it shall become a part of the constitution. When two or more amendments are submitted to the electors at the same time, they shall be voted upon separately.

Corresponding provisions in—  
Constitution of 1776, sec. 47.  
Constitution of 1838, Art. X.  
Constitution of 1874, Art. XVIII.

### Constitutional Conventions.

Section 2. The general assembly may recommend to the electors of the commonwealth to vote for or against a convention for the framing of a new constitution or of amendments to this constitution or of a revision thereof. Such convention shall be held only with the approval of a majority of the electors voting on the question. It shall be composed of delegates chosen by the electors of the commonwealth. The new constitution, the amendments or the revised constitution proposed by the convention shall become effective only when ratified by a majority of the electors of the commonwealth voting thereon. The times and methods of such voting and election and the composition of the convention shall be determined by the general assembly with the consent of a majority of the members elected to each house.

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### CONCLUDING SECTION.

Wherever a term in the masculine form is used in this constitution, it refers to men and women alike.



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## EXHIBIT A.

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### RULES OF STYLE.

Used in Drafting the Proposed Constitution.

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## EXHIBIT A.

### RULES OF STYLE

Used in Drafting the Proposed Constitution.

The commission has been very careful to state the proposed constitution in the most accurate language possible. The need of expressing both new provisions and old in an accurate and uniform style is apparent even to a casual student of the subject. In drafting new provisions the commission was confronted at the outset with the necessity of adopting uniform phraseology. To produce entire uniformity throughout the whole constitution it has been necessary in many instances to change the language of the present constitution even where no change has been made in the substance. Only a precise and uniform use of words and an orderly arrangement of material can present a number of related principles and rules in such a way as to avoid confusion.

Except in the Bill of Rights which is unchanged in substance and in form the Commission have followed the following rules of style:

**RULE I.** A word or phrase should have a single meaning throughout the whole constitution; and, conversely, an idea or thing should always be expressed by the same word or phrase.

Examples:

1. *State*.—The territory included within the boundaries of Pennsylvania.

2. *Commonwealth*.—The residents of the state as a political and social unit.

Note: In the present constitution the words “state” and “commonwealth” are used interchangeably.

3. *Municipality*.—Defined in article XIII, section 1 as “counties, states, boroughs, townships, school districts, poor districts and other divisions of the commonwealth for the purpose of local government.”

4. *State government*.—All government dealt with in the constitution except that of municipalities.

5. *Enact*.—To make law.

Note: In the present constitution the words “pass” and “enact” are used interchangeably.

6. *Corporation*.—An association having any of the powers or privileges usually conferred upon private corporations. The word is not used to denote a municipality.

7. *Branch*.—One of the three divisions of the state government, e. g. the legislative branch.

8. *General assembly*.—The senate and the house of representatives.

Note: In the present constitution, “general assembly” and “legislature” are used interchangeably.

9. *Law*.—Statutory law enacted by the state government.

10. *Prescribed by law*.—Provided, regulated or prescribed by statutory law.

11. *No law shall*.—This takes the place of such expressions as “no law shall ever be made,” “no law shall be passed,” and “the general assembly is hereby prohibited.”

12. *Laws shall (may) be enacted*.—These expressions take the place of such expressions as “the general assembly shall provide by law,” and “the general assembly may enact laws.”

13. *When this constitution becomes effective*.—The date upon which the constitution by its own provisions is to become effective.

14. *Officer*.—This word does not include members of the general assembly. When these are intended to be included they are specially mentioned, as in article VII, section 3 of the constitution as proposed. The word “officer” does include judges, as appears by article VII, section 7 of the constitution as proposed in which reference is made to elected officers of the state government “except judges.” Such expressions as “officers of the commonwealth” have been avoided by the use of language which will make it clear whether it is intended to include officers of municipalities or officers of the state government only.

The difference between an officer and an employe is a difference of degree only. It is therefore impossible to define the word “officer” so as clearly to distinguish it from employe. As under the present constitution it will be necessary for the courts to decide, where the constitution plainly describes a position as an “office,” whether a public servant is an officer or simply an employe.

15. *Office or place of trust or profit*.—This expression includes all public positions except membership in the congress or in the general assembly, both of which are specially mentioned when intended to be included. In a number of instances the difficulty of drawing the line between an officer and an employe has been avoided by using the comprehensive expression “office or place of trust or profit” to cover both.

## RULE II. Unnecessary language should be eliminated.

Examples:

1. Emphasizing words or expressions are omitted in connection with absolute permissions or prohibitions. This avoids the use of the words “all” and “any” in many instances and avoids

the use of such words and expressions as "in any way," "ever" and "never."

2. In many instances a section or sentence of the present constitution has been re-written so as to present the thought in fewer words. Compare for instance:

Article V, section 2 of the constitution as proposed with article V, section 2 of the present constitution.

Article VI, section 3 of the constitution as proposed with article VIII, section 6 of the present constitution.

Article IX, section 8 of the constitution as proposed with article III, section 24 of the present constitution.

**RULE III.** Related provisions should be grouped together so far as possible.

1. Article VII of the constitution as proposed includes matter with respect to public servants now found in articles II, III, IV, V, VI, VII, VIII and XII.

2. Article XIII of the constitution as proposed is a new article including all matter both new and old with respect to municipalities.

**RULE IV.** An orderly arrangement of sentences, sections and articles should be followed and where possible, the arrangement of sentences and sections should follow the order of time.

Examples:

1. In article IV, the sections covering various subject matters are arranged in the following order:—(1) Vesting executive power; (2) governor; (3) lieutenant-governor; (4) vacancy in office of governor or lieutenant-governor; (5) secretary of the commonwealth; (6) secretary of internal affairs; (7) auditor general and state treasurer; (8) state contracts; (9) seal and commissions.

2. Article III, section 6 has been re-written so as to state the required proceedings in chronological order.



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**EXHIBIT B.**

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**PROPOSED CONSTITUTION**

**And Corresponding Provisions of Present Constitution in  
Parallel Columns**

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ARTICLE I.  
DECLARATION OF RIGHTS.

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NOTE.

The Commission recommend that the Declaration of Rights be adopted without change. The text will be found in the Proposed Constitution, Part II of the report of the Commission.

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## ARTICLE II. THE GENERAL ASSEMBLY.

Art. II, Secs. 1, 2, 3, 4

Proposed Constitution	Corresponding provisions in present Constitution
<b>Legislative Power.</b>	
<p>Section 1. The legislative power of the commonwealth shall be vested in a general assembly which shall consist of a senate and a house of representatives.</p>	<p>The legislative power of this commonwealth shall be vested in a general assembly which shall consist of a senate and a house of representatives.—(Article II, section 1.)</p>
<b>Legislative Apportionment.</b>	
<p>Section 2. At the first session of the general assembly after this constitution becomes effective and at the first session of the general assembly after each United States decennial census, the state shall be divided by law into senatorial and representative districts.</p>	<p>The general assembly at its first session after the adoption of this constitution, and immediately after each United States decennial census, shall apportion the state into senatorial and representative districts agreeably to the provisions of the two next preceding sections.—(Article II, section 18.)</p>
<b>Senatorial Districts.</b>	
<p>Section 3. The state shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one senator. The senatorial ratio shall be obtained by dividing the whole population of the state, as ascertained by the most recent United</p>	<p>The state shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one senator. Each county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for a surplus of population exceeding</p>



States decennial census, by the number fifty. A county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for an excess of population exceeding three-fifths of a ratio. No county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators, when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio. No county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough or township shall be divided in the formation of a district.

#### Representative Districts.

Section 4. The members of the house of representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the state as ascertained by the most recent United States decennial census by the number two hundred. A county containing less than five ratios shall have one representative for each full ratio, and an additional representative when the excess exceeds half a ratio; but each county shall have at least one representative. A

three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators, when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the state by the number fifty.—(Article II, section 16.)

The members of the house of representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the state as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full

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county containing five ratios or more shall have one representative for each full ratio. A city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. A city entitled to more than four representatives and a county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory. A district shall elect its proportion of representatives according to its population, but no district shall elect more than four representatives.

## Qualifications of Members.

Section 5. A senator shall be at least twenty-five years of age and a representative shall be at least twenty-one years of age. Each shall have been a citizen of the commonwealth and a resident of the state for four years and a resident of his district for one year next before his election, unless absent on the public business of the United States, of the state government or of a municipality of the commonwealth. He shall reside in his district during his term of service.

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ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.—(Article II, section 17.)

Senators shall be at least twenty-five years of age and representatives twenty-one years of age. They shall have been citizens and inhabitants of the state four years, and inhabitants of their respective districts one year next before their election (unless absent on the public business of the United States or of this state), and shall reside in their respective districts during their term of service.—(Article II, section 5.)

### Election and Terms of Members.

Section 6. Members of the general assembly shall be chosen at the general election. Their terms of service shall begin on the first day of December after their election. Senators shall serve for four years and representatives for two years. When a vacancy shall occur in either house, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

### Compensation of Members.

Section 7. The members of the general assembly shall receive salary and mileage for regular and special sessions as prescribed by law and no other compensation, whether for services upon committee or otherwise. No member of the general assembly shall, during the term for which he has been elected, receive an increase of salary or mileage allowance under a law enacted during such term.

### Privileges of Members.

Section 8. A member of the general assembly shall be privileged from arrest during attendance at the sessions thereof and in going to and returning from the same,

Members of the general assembly shall be chosen at the general election every second year. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either house, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.—(Article II, section 2.)

Senators shall be elected for the term of four years and representatives for the term of two years.—(Article II, section 3.)

The members of the general assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for services upon committee or otherwise. No member of either house shall during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.—(Article II, section 8.)

The members of the general assembly shall in all cases, except treason, felony, violation of their oath of office, and breach of surety of the peace, be privileged from arrest during their

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except in cases of treason, felony, violation of his oath of office and breach or surety of the peace. For a speech or debate in the general assembly he shall not be questioned in any other place.

## Times of Sessions.

Section 9. The general assembly shall meet at twelve o'clock noon, on the first Tuesday of January in each odd-numbered year and at other times when convened by the governor. It shall hold no adjourned annual session.

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attendance at the sessions of their respective houses and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.—(Article II, section 15.)

The general assembly shall meet at twelve o'clock noon, on the first Tuesday of January every second year, and at other times when convened by the governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States senator from this commonwealth, in a recess between sessions, the governor shall convene the two houses, by proclamation on notice not exceeding sixty days, to fill the same.—(Article II, section 4.)

## Quorums.

Section 10. In each house a majority of the members shall constitute a quorum. A smaller number may adjourn from day to day and compel the attendance of absent members.

A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.—(Article II, section 10.)

### Powers of Each House.

Section 11. Each house shall have power to make its rules of procedure, to judge of the election and qualifications of its members, to punish for contempt or disorderly behavior in its presence, to enforce obedience to its processes, to protect its members against violence, offers of bribes or private solicitation, and by a vote of two-thirds of the members, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free commonwealth. A member expelled for corruption shall not thereafter be eligible to either house. Punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

### Choice of Officers.

Section 12. The senate shall, at the beginning and close of each regular session and at other necessary times, elect one of its members as president pro tempore. The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers.

Each house shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free state. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.—(Article II, section 11.)

\* \* \* Each house shall \* \* \* judge of the election and qualifications of its members.—(Article II, section 9.)

The senate shall, at the beginning and close of each regular session and at such other times as may be necessary, elect one of its members president pro tempore \* \* \* The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers \* \* \* — (Article II, section 9.)

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Officers and Employes.

Section 13. The officers and employes of each house shall have active duties and shall be selected and compensated in pursuance of laws prescribing their number, duties and compensation.

The general assembly shall prescribe by law the number, duties and compensation of the officers and employes of each house, and no payment shall be made from the state treasury, or be in any way authorized, to any person, except to an acting officer or employe elected or appointed in pursuance of law.—(Article III, section 16.)

Journals.

Section 14. Each house shall keep a journal of its proceedings, and shall publish so much thereof as shall not require secrecy. At the request of two members, the yeas and nays on a question shall be entered on the journal.

Each house shall keep a journal of its proceedings and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.—(Article II, section 12.)

Sessions to be Open.

Section 15. The sessions of each house and of committees of the whole shall be open unless the business ought to be kept secret.

The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.—(Article II, section 13.)

**Adjournments.**

Section 16. Neither house shall, without the consent of the other, adjourn for more than three days, or to a place other than that in which the two houses shall be sitting.

Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.—(Article II, section 14.)

**ARTICLE III.  
LEGISLATION.**

**Method of Enacting Laws.**

Section 1. Laws shall be enacted by bill only.

No law shall be passed except by bill, \* \* \*—(Article III, section 1.)

**Bills for Raising Revenue.**

Section 2. Bills for raising revenue shall originate in the house of representatives. The senate may propose amendments.

All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.—(Article III, section 14.)

**Printing and Reference of Bills.**

Section 3. Before consideration, a bill shall be referred to a committee, returned therefrom, and printed for the use of the members.

No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.—(Article III, section 2.)

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## Member Interested in Bill Not to Vote.

Section 4. A member of the general assembly who has a private interest in a measure or bill shall disclose the fact to the house of which he is a member, and shall not vote thereon.

A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.—(Article III, section 33.)

## Amendments and Conference Committees.

Section 5. An amendment to a bill shall be printed for the use of the members before the final vote is taken on the bill. An amendment by one house shall be concurred in by the other and a report of a committee of conference shall be adopted by either house only by the vote of a majority of the members taken by yeas and nays. The names of the members voting for and of those voting against such amendment or report shall be entered on the journal. A bill shall not be so altered or amended on its passage through either house as to change its original purpose.

\* \* \* all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill.—(Article III, section 4.)

No amendment to bills by one house shall be concurred in by the other, except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.—(Article III, section 5.)

\* \* \* no bill shall be so altered or amended, on its passage through either house, as to change its original purpose.—(Article III, section 1.)



### Notice of Local or Special Bills.

Section 6. At least thirty days before the introduction of a local or special bill, notice of the intention to introduce the same shall be published in the locality where the matter or thing to be affected shall be situated. No such bill shall be finally acted on by either house until the evidence of such notice having been published has been exhibited therein. Notice shall not be required of the intention to introduce a general bill for the repeal of a local or special law.

### Final Passage of Bills.

Section 7. Before a bill shall be passed, it shall be read at length on three different days in each house; on its final passage the vote shall be taken by yeas and nays, the names of the members voting for and of those voting against shall be entered on the journals, and a majority of the members elected to each house shall be recorded thereon as voting in its favor.

### Signing of Bills by Presiding Officers.

Section 8. The presiding officer of each house shall, in the presence of the house over which he presides, sign bills and joint resolutions passed by the general assembly.

No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published shall be exhibited in the general assembly before such act shall be passed.—(Article III, section 8.)

Every bill shall be read at length on three different days in each house; \* \* \* and no bill shall become a law, unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.—(Article III, section 4.)

The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles

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<p>after their titles have been publicly read immediately before signing. The fact of signing shall be entered on the journal.</p>	<p>have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.—(Article III, section 9.)</p>
<p style="text-align: center;"><b>One Subject in Each Law.</b></p> <p>Section 9. A law shall contain only one subject. A general appropriation law, a codification, and a compilation or general revision of statutory law shall be deemed to contain only one subject.</p>	<p>No bill, except general appropriation bills, shall be passed containing more than one subject * * * —(Article III, section 3.)</p>
<p style="text-align: center;"><b>Titles of Laws.</b></p> <p>Section 10. The subject of a law shall be clearly expressed in its title. A law may in the body thereof set forth a short title by which it may be cited. A law amending, reviving or extending a law shall set forth in its title the title or the short title of the law affected.</p>	<p>No bill * * * shall be passed containing more than one subject, which shall be clearly expressed in its title.—(Article III, section 3.)</p>
<p style="text-align: center;"><b>Form of Amending, Reviving or Extending Laws.</b></p> <p>Section 11. A law amending, reviving or extending a law or conferring the provisions thereof shall set forth in full the part of the law affected, and an</p>	<p>No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred</p>

amending law shall also set forth in full the part of the law affected as amended.

#### Budget and Appropriation Bills.

Section 12. The governor shall submit to the general assembly a budget on or before March 1 of each year in which it shall be in regular session. The budget shall contain a complete plan of proposed appropriations and complete estimates of the revenues and funds available for appropriation for the two ensuing fiscal years, including appropriations for charitable, educational and benevolent purposes. In submitting proposals for appropriations to charitable, educational or benevolent institutions not under the absolute control of the state government, the governor shall at the same time submit a plan of distribution among the classes of institutions to be benefited.

When the governor presents the budget to the house of representatives, he shall submit a general appropriation bill containing the proposed appropriations for the fiscal years covered by the budget and may also submit any bill embodying recommendations as to sources of revenue.

The presiding officer of the house of representatives shall immediately cause such bills to be introduced.

shall be re-enacted and published at length.—(Article III, section 6.)

The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.—(Article III, section 15.)

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The general assembly may increase, decrease, strike out or otherwise alter any item in the general appropriation bill, or may add new items thereto.

Until the general appropriation law has been enacted neither house shall consider an appropriation bill other than the general appropriation bill unless the appropriation shall be solely for the immediate needs of the general assembly or unless the governor shall request the general assembly to act upon the bill in advance of the general appropriation bill.

After the general appropriation law has been enacted, no appropriation shall be made for any purpose, object or item included therein or in the general appropriation bill as submitted by the governor, unless the governor shall request the general assembly to pass a bill making such appropriation.

The general assembly shall not finally adjourn for ten days after the general appropriation bill has been presented to the governor.

### Appropriations to Charitable and Educational Institutions.

Section 13. An appropriation for charitable, educational or benevolent purposes may be made to a class of corporations, associations or institutions not under the absolute control of the state government, engaged in work or service for the public good, as such classes may be defined by law. Such work or service shall conform to standards of excellence prescribed by law or by an agency created by law.

An appropriation to such a class shall be divided among its members in accordance with a plan uniform in its application to them as prescribed by law. No law shall designate such a corporation, association or institution as the beneficiary of an appropriation.

Each item containing such an appropriation shall be voted on separately in each house before final action is taken upon the bill of which it is a part and shall be stricken from the bill unless it shall receive the support of two-thirds of the members elected. The votes of each house shall be taken by yeas and nays and the names of the members voting for and of those voting against the item shall be entered on the journal.

Corporations, associations and institutions receiving such appropriations shall account therefor to the general

No appropriation shall be made to any charitable or educational institution not under the absolute control of the commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the state, except by a vote of two-thirds of all the members elected to each house.—(Article III, section 17.)

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assembly or to an agency prescribed by law and shall be subject to inspection by the state government.

After the establishment of one or more state universities, no appropriation for an educational purpose shall be made by the state government to a corporation, association or institution, or to a class of corporations, associations or institutions, not under the absolute control of the state government or of a municipality.

#### Appropriations to Denominational Institutions.

Section 14. No appropriations shall be made for charitable, educational or benevolent purposes to any denominational or sectarian institution, corporation or association.

No appropriations, \* \* \* shall be made for charitable, educational or benevolent purposes \* \* \* to any denominational or sectarian institution, corporation or association.  
—(Article III, section 18.)

#### Certain Appropriations Permitted.

Section 15. Appropriations may be made for the payment of pensions and gratuities for military services; for the payment of pensions for the retirement of classes of officers and employees of the state government and school districts; for the relief of persons or municipali-

No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community \* \* \*  
—(Article III, section 18.)

ties injured or damaged by surface subsidence resulting from past or future mining of anthracite coal; for relief consequent upon grave public disasters or calamities; for the payment to funds under public control for the benefit of classes of persons who are to be the recipients of public assistance; and for the payment of the debts of municipalities contracted to enable the commonwealth to repel invasion, suppress domestic insurrection or defend itself in time of war.

#### Gratuities and Extra Compensation Forbidden.

Section 16. Except as in this constitution expressly provided, no appropriation shall be made by the state government for charitable, benevolent or educational purposes to any person or community, and no law shall authorize a gratuity by the state government, give extra compensation after services have been rendered or contract made, or appropriate money to pay a claim against the commonwealth without previous authority of law.

#### Approval and Veto by Governor.

Section 17. Every order, resolution or vote to which the concurrence of both houses shall be necessary, except on the question of adjournment or of

No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community \* \* \*—  
(Article III, section 18.)

No bill shall be passed giving any extra compensation to any public officer, servant, employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim against the commonwealth without previous authority of law.—(Article III, section 11.)

Every order, resolution or vote, to which the concurrence of both houses may be necessary, except on the question of adjournment, shall be presented to the governor and before it

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agreement to an amendment to this constitution shall if passed by the general assembly be presented to the governor. If he approves it, he shall sign it and it shall then become a law. If he shall not approve it, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal. If, after reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent with the governor's objections to the other house and if approved by two-thirds of the members elected to that house shall become law. The votes of each house shall be taken by yeas and nays and the names of the members voting for and of those voting against the bill shall be entered on the journal.

If a bill shall not be returned by the governor within ten days after it has been presented to him, it shall become law unless the general assembly by its adjournment prevents its return. In case of such adjournment the bill shall become law unless within thirty days after adjournment the governor shall file it with his objections in the office of the secretary of the common-

shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.—(Article III, section 26.)

Every bill which shall have passed both houses shall be presented to the governor; if he approve it he shall sign it, but if he shall not approve it he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house by which likewise it shall be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which



wealth and shall give notice thereof by public proclamation.

#### Approval and Veto of Appropriation Bills.

Section 18. The governor may indicate his approval or disapproval of an appropriation bill by signing or vetoing it as in the case of other bills. If he shall approve one or more items and shall disapprove or reduce one or more other items, he shall return the bill to the house in which it originated setting forth his reasons. The items which he approves shall become law. The items which he disapproves or reduces may be passed over his objections by separate action on each item in the manner prescribed for the passage of bills over his veto. Such items not passed over his objections shall, in accordance with his recommendation, be stricken from the bill or shall become law as reduced by him.

#### When Laws Shall Take Effect.

Section 19. A law shall become effective on the first day of January after its enactment unless otherwise provided therein.

case it shall be a law, unless he shall file the same with his objections, in the office of the secretary of the commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment.—(Article IV, section 15.)

The governor shall have power to disapprove of any item or items of any bill, making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.—(Article IV, section 16.)

New.

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## Local and Special Laws Forbidden.

Section 20. No local or special law shall be enacted:

- (a) Regulating the affairs of a municipality;
- (b) Changing the names of persons or places;
- (c) For the creation or regulation of highways, ferries or bridges, except bridges across streams which form state boundaries;
- (d) Regulating burial grounds or public grounds not belonging to the commonwealth;
- (e) Granting divorces or authorizing the adoption or legitimation of children;
- (f) Regulating elections, except that laws regulating the registration of electors may be applied to cities or boroughs of a specified class only;
- (g) Regulating the organization, jurisdiction and powers of courts of the same class or grade, judicial process, or the administration of justice;
- (h) Regulating liens, the collection of debts or the effect of judicial sales of real estate;
- (i) Regulating schools;

The general assembly shall not pass any local or special law:

1. Authorizing the creation, extension or impairing of liens;
2. Regulating the affairs of counties, cities, townships, wards, boroughs or school districts;
3. Changing the names of persons or places;
4. Changing the venue in civil or criminal cases;
5. Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys;
6. Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state;
7. Vacating roads, town plats, streets or alleys;
8. Relating to cemeteries, graveyards, or public grounds not of the state;
9. Authorizing the adoption or legitimation of children;
10. Locating or changing county seats, erecting new counties or changing county lines;
11. Incorporating cities, towns, villages, or changing their charters:

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| <p>(j) Fixing the rate of interest;<br/>                 (k) Regulating the estates of decedents, minors or persons under disability;<br/>                 (l) Regulating labor, trade, mining or manufacturing;<br/>                 (m) Creating corporations, or amending, renewing or extending their charters;<br/>                 (n) Exempting property from taxation;<br/>                 (o) Granting a benefit, privilege or power.<br/>                 No local or special law shall be indirectly enacted by the partial repeal of a general law. Laws repealing local or special laws may be enacted.</p> | <p>12. For the opening and conducting of elections, or fixing or changing the place of voting:<br/>                 13. Granting divorces:<br/>                 14. Erecting new townships or boroughs, changing township lines, borough limits, or school districts:<br/>                 15. Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts:<br/>                 16. Changing the law of descent or succession:<br/>                 17. Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:<br/>                 19. Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:<br/>                 20. Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes:<br/>                 21. Fixing the rate of interest:</p> |
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22. Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment:
23. Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury:
24. Exempting property from taxation:
25. Regulating labor, trade, mining or manufacturing:
26. Creating corporations, or amending, renewing or extending the charters thereof:
27. Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:
28. Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law: but laws repealing local or special acts may be passed.
29. Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.—(Article III, section 7.)

All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout

the state; but laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class.—(Article VIII, section 7.)

All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgment of such courts, shall be uniform; \* \* \* (Article V, section 26.)

The general assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment and for occupational diseases of employees, whether or not such injuries or diseases result in death and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the general assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such actions shall be prosecuted. \* \* \* (Article III, section 21, amendment of November 2, 1915.)

### Damages for Injuries.

Section 21. Laws may be enacted requiring the payment by employers, or by employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment and for occupational diseases of employees, whether or not such injuries or diseases result in death and regardless of fault of employer or employee, fixing the basis of ascertainment of such compensation and its maximum and minimum limits, and providing special or general remedies for the collection thereof. In no other case shall a limit be set by law upon the amount to be recovered for injuries to persons or property. In case of death from injuries, the right of action therefor shall survive and shall be exercised by persons designated by law.

## Corresponding provisions in present Constitution

## Land Titles.

Section 22. Laws may be enacted providing that the state government or the counties may register, transfer, insure or guarantee titles to lands, and providing for the determination of interests in such lands and for the creation of indemnity funds. For such purposes courts may be established and judicial powers may be conferred upon officers of the state government or of the counties subject to the right of appeal by the parties interested to the courts.

Laws may be passed providing for a system of registering, transferring, insuring of and guaranteeing land titles by the state, or by the counties thereof, and for settling and determining adverse or other claims to and interest in lands the titles to which are so registered, transferred, insured and guaranteed; and for the creation and collection of indemnity funds; and for carrying the system and powers hereby provided for into effect by such existing courts as may be designated by the legislature, and by the establishment of such new courts as may be deemed necessary. In matters arising in and under the operation of such system, judicial powers, with right of appeal, may be conferred by the legislature upon county recorders and upon other officers by it designated. Such laws may provide for continuing the registering, transferring, insuring, and guaranteeing such titles after the first or original registration has been perfected by the court, and provision may be made for raising the necessary funds for expenses and salaries of officers, which shall be paid out of the treasury of the several counties.—(Amendment of November 2, 1915, which has no article or section number.)

### Militia.

Section 23. Laws shall be enacted to provide for the arming, organization, maintenance, and discipline of the citizens of the commonwealth for its defense. Persons having conscientious scruples against bearing arms may be exempted by law from military service.

### Streams.

Section 24. General laws shall be enacted to provide for maintaining the purity of streams.

### Legislation at Special Sessions.

Section 25. At a special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

### Change of Capital.

Section 26. No law changing the location of the capital shall be valid unless ratified by a majority of the electors of the commonwealth voting on the question.

The freemen of this commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The general assembly shall provide for maintaining the militia by appropriations from the treasury of the commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.—(Article XI, section 1.)

### New.

When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.—(Article III, section 25.)

No law changing the location of the capital of the state shall be valid until the same shall have been submitted to the qualified electors of the commonwealth at a general election and ratified and approved by them.—(Article III, section 28.)

# ARTICLE IV. THE EXECUTIVE.

Art. IV, Secs. 1, 2, 3, 4

Corresponding provisions in present Constitution

## Executive Power.

Section 1. The executive power of the commonwealth shall be vested in a governor, a lieutenant-governor, a secretary of the commonwealth, an attorney general, an auditor general, a state treasurer, a secretary of internal affairs, a commissioner of education, and in other executive officers as prescribed by law.

The executive department of this commonwealth shall consist of a governor, lieutenant governor, secretary of the commonwealth, attorney general, auditor general, state treasurer, secretary of internal affairs and a superintendent of public instruction.—(Article IV, section 1.)

## Qualifications of Governor.

Section 2. The governor shall be a citizen of the United States at least thirty years of age. He shall have been a resident of the state for seven years next preceding his election unless absent on the public business of the United States or of the state government.

No person shall be eligible to the office of governor or lieutenant-governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the state, unless he shall have been absent on the public business of the United States or of this state.—(Article IV, section 5.)



### Election of Governor.

Section 3. The governor shall be chosen by the electors of the commonwealth at the places where they shall vote for representatives. The returns of the election shall be sealed up and transmitted to the seat of government, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses of the general assembly. The person having the highest number of votes shall be governor. If two or more shall have the same and the highest number of votes, one of them shall be chosen governor by the joint vote of the members of both houses.

### Contested Election of Governor.

Section 4. A contested election of a governor shall be determined by a committee selected from both houses of the general assembly and formed and regulated as prescribed by law.

The chief justice of the supreme court shall preside at the trial of such a contested election. He shall determine questions regarding the admissibility of evidence and shall, upon request of the committee, pronounce his opinion upon other questions of law.

\* \* \* ; he shall be chosen on the day of the general election, by the qualified electors of the commonwealth, at the places where they shall vote for representatives. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses \* \* \* (Article IV, section 2.)

\* \* \* Contested elections (governor and lieutenant-governor) shall be determined by a committee, to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.—(Article IV, section 2.)

The chief justice of the supreme court shall preside upon the trial of any contested election of governor or lieutenant-governor, and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial. \* \* \* —(Article IV, section 17.)

## Corresponding provisions in present Constitution

## Term of Governor.

Section 5. The governor shall hold office for four years from the third Tuesday of January succeeding his election or until his successor shall qualify. A person elected governor shall not be eligible for the succeeding term.

The governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.-- (Article IV, section 3.)

\* \* \* The governor and lieutenant-governor shall exercise the duties of their respective offices until their successors shall be duly qualified.--(Article IV, section 17.)

## Supreme Executive Power.

Section 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed. \* \* \* \*--(Article IV, section 2.)

## Military Power.

Section 7. The governor shall be the commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the service of the United States.

The governor shall be commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the actual service of the United States.--(Article IV, section 7.)

### Appointing Power.

Section 8. The governor shall appoint a secretary of the commonwealth, an attorney general, a secretary of internal affairs and a commissioner of education, to serve during his pleasure, and other officers as prescribed by law.

When the senate is in regular session, the governor shall exercise the power to appoint an officer only after nomination to the senate and by and with the advice and consent of a majority of its members, except where he shall appoint to fill a vacancy occurring within ten days before final adjournment of the session.

The governor may fill by appointment a vacancy in an office to which he may appoint. If he shall appoint to an appointive office during a recess of the senate or to fill a vacancy occurring within ten days before final adjournment of a regular session thereof, such appointment shall be valid until the end of the next regular session of the senate, and the person so appointed shall be deemed to have been rejected by the senate at such session unless nominated by the governor and confirmed by the senate.

The governor may fill by appointment a vacancy in the office of auditor general or of state treasurer and in any other elective office which he may be authorized to fill.

He shall nominate and, by and with the advice and consent of two-thirds of all the members of the senate, appoint a secretary of the commonwealth and an attorney general during pleasure, a superintendent of public instruction for four years, and such other officers of the commonwealth as he is or may be authorized by the constitution or by law to appoint; he shall have power to fill all vacancies that may happen, in offices to which he may appoint during the recess of the senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the senate, in the office of auditor general, state treasurer, secretary of internal affairs or superintendent of public instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the senate, the governor shall nominate to the senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive

## Corresponding provisions in present Constitution

Such vacancy shall be filled by election on the next election day appropriate to the office which shall fall not less than sixty days after the occurrence of the vacancy. Such appointee shall serve until the person so elected shall take office as prescribed by law.

If a power of appointment to an appointive or elective office shall arise during a session of the senate and not within ten days before final adjournment, the governor shall, at such session, nominate a proper person for the office. If a power of appointment to an appointive office shall arise within ten days before final adjournment of a session of the senate or during a recess of the senate, he shall, at the next session of the senate nominate a proper person for the office. In either case, if the senate shall reject a nomination and shall notify the governor that it will not adjourn within ten days, he shall nominate another person for the office. If he shall fail to nominate as herein required, he may not appoint to the office except after nomination to the senate and by and with the advice and consent of a majority of its members.

If the nomination of a person to an office shall be rejected by the senate he shall not be appointed to such office before the next session of the senate.

nominations the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor, the vote shall be taken by yeas and nays and shall be entered on the journal.—(Article IV, section 8, amendment of November 2, 1909.)

Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.—(Article V, section 25.)

In acting on executive nominations, the senate shall sit with open doors. The vote shall be taken by yeas and nays and shall be entered on the journal.

#### Pardoning Power.

Section 9. The governor may remit fines and forfeitures, and may grant reprieves, commutations of sentence and pardons, except in cases of impeachment. He shall commute a sentence or grant a pardon only on the recommendation in writing of the lieutenant-governor, the secretary of the commonwealth, the attorney general and the secretary of internal affairs, or of any three of them, after full hearing, upon due public notice and in open session. Such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of the commonwealth.

#### Power to Require Information.

Section 10. The governor may require information in writing from the executive officers of the state government with respect to their duties.

#### Duty to Inform General Assembly.

Section 11. The governor shall, from time to time, give to the general assembly information of the state of the

He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the lieutenant-governor, secretary of the commonwealth, attorney general and secretary of internal affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of the commonwealth.—(Article IV, section 9.)

He may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.—(Article IV, section 10.)

He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend

Corresponding provisions in present Constitution

commonwealth, and shall recommend to its consideration such measures as he may judge expedient.

**Power to Adjourn or Convene General Assembly.**

Section 12. The governor, in case of disagreement between the two houses of the general assembly with respect to the time of adjournment, may adjourn them to such time as he may think proper not exceeding four months. He may on extraordinary occasions convene, by proclamation, the general assembly and he may convene, by proclamation, the senate for the transaction of executive business.

**Lieutenant-Governor.**

Section 13. The lieutenant-governor shall have the same qualifications and shall be chosen at the same time, in the same manner, and for the same term as the governor. He shall not be eligible to the office of lieutenant-governor for the succeeding term. A contested election of lieutenant-governor shall be conducted in the same manner as a contested election of governor. The lieutenant-

to their consideration such measures as he may judge expedient.—(Article IV, section 11.)

He may, on extraordinary occasions, convene the general assembly, and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months. He shall have power to convene the senate in extraordinary session by proclamation for the transaction of executive business.—(Article IV, section 12.)

A lieutenant-governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the governor; he shall be president of the senate, but shall have no vote unless they be equally divided.—(Article IV, section 4.)

**Note.**

Article IV, section 17, of the present constitution relative to contested elections, which has been transferred to Article

IV, section 4, as proposed omitting reference to the lieutenant-governor, has, in the section here proposed been expressly applied to the lieutenant-governor.

In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the governor, the powers, duties and emoluments of the office, for the remainder of the term, or until the disability be removed, shall devolve upon the lieutenant-governor.—(Article IV, section 13.)

In case of a vacancy in the office of lieutenant-governor, or when the lieutenant-governor shall be impeached by the house of representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder of the term, or until the disability be removed, shall devolve upon the president pro tempore of the senate; and the president pro tempore of the senate shall in like manner become governor if a vacancy or disability shall occur in the office of governor; \* \* \* \*—(Article IV, section 14.)

In case of a vacancy in the office of lieutenant-governor, or when the lieutenant-governor shall be impeached by the house of representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the

ant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided.

### Succession to Governorship.

Section 14. If the office of governor shall be vacant the lieutenant-governor shall become governor. If the governor shall fail to qualify or shall be under a disability, the powers, duties and emoluments of his office until the end of the governor's term or until he shall qualify or his disability shall be removed shall devolve on the lieutenant-governor; or, if his office shall be vacant or he shall be under a disability, then on the president pro tempore of the senate, or if his office shall be vacant or he shall be under a disability, then on a person elected by a majority of the members of the general assembly. For the purpose of such election, the general assembly may convene in special session without a proclamation of the governor upon a call signed by five members of each house.

### Succession to Lieutenant-Governorship.

Section 15. If the office of lieutenant-governor shall be vacant or if he shall fail to qualify or shall be absent or under a disability, the powers, duties and emoluments of his office, until the end of his term or until he shall

## Corresponding provisions in present Constitution

qualify or return or his disability shall be removed, shall devolve upon the president pro tempore of the senate. In such event the seat in the senate of the president pro tempore of the senate shall become vacant.

#### Determination of Disability.

Section 16. The fact of disability of the governor or of the lieutenant-governor or of a person upon whom the powers and duties of either office would otherwise devolve, shall be determined only by the supreme court on the address of the general assembly, agreed to by a majority of the members of each house, or, if the general assembly be not in session, on the written address of such majority.

#### Secretary of the Commonwealth.

Section 17. The secretary of the commonwealth shall keep a record of the official acts and proceedings of the governor, and perform other duties as prescribed by law.

remainder of the term, or until the disability be removed, shall devolve upon the president pro tempore of the senate; and the president pro tempore of the senate shall in like manner become governor if a vacancy or disability shall occur in the office of governor; his seat as senator shall become vacant whenever he shall become governor, and shall be filled by election as any other vacancy in the senate.—(Article IV, section 14.)

New.

The secretary of the commonwealth shall keep a record of all official acts and proceedings of the governor, and when required lay the same, with all papers, minutes and vouchers



He may be required by either house of the general assembly to exhibit his record with the papers, minutes and vouchers relating thereto.

#### Secretary of Internal Affairs.

Section 18. Until otherwise prescribed by law, the secretary of internal affairs shall exercise the powers and perform the duties prescribed by law when this constitution becomes effective. His department shall embrace a bureau of industrial statistics.

#### Auditor General and State Treasurer.

Section 19. The auditor general and the state treasurer shall be chosen by the electors of the commonwealth. Each shall hold his office for four years and neither shall be eligible for the succeeding term.

relating thereto, before either branch of the general assembly, and perform such other duties as may be enjoined upon him by law.—(Article IV, section 18.)

The secretary of internal affairs shall exercise all the powers and perform all the duties of the surveyor general, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, agricultural, manufacturing, mining, mineral, timber and other material or business interests of the state as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the general assembly.—(Article IV, section 19.)

The terms of the secretary of internal affairs, the auditor general, and the state treasurer shall each be four years; and they shall be chosen by the qualified electors of the state at general elections, but a state treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successors shall be elected at the general election in the year one thousand nine hundred and twelve, and in every fourth year thereafter. No person elected to the office of auditor general or state treasurer shall be capable of

Corresponding provisions in present Constitution

holding the same office for two consecutive terms.—(Article IV, section 21, amendment of November 2, 1909.)

\* \* \* no member or officer of any department of the government shall be in any way interested in such contracts (contracts for stationery, printing, paper and fuel used in the legislative and other departments of the state government, for printing and binding and for repairing and furnishing the halls and rooms used by the general assembly and its committees) \* \* \* (Article III, section 12.)

All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law; \* \* \* (Article III, section 12.)

State Contracts.

Section 20. No member of the general assembly or officer or employe of the state government shall be interested in a contract with the state government, or in furnishing thereto materials or supplies.

Public Printing and Supplies

Section 21. The printing and binding for the state government shall be done under contract or by the state government. Furnishings and fuel for the capitol buildings and paper and stationery for the state government shall be made or produced by the state government or procured under contract. Contracts for work or material designated in this section shall be awarded to the lowest responsible bidder subject to the approval of the auditor general and of the state treasurer.

### Seal and Commissions.

Section 22. The present great seal of Pennsylvania shall be the seal of the commonwealth. Commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania. They shall be sealed with the seal of the commonwealth and signed by the governor.

The present great seal of Pennsylvania shall be the seal of the state. All commissions shall be in the name and by authority of the commonwealth of Pennsylvania, and be sealed with the state seal and signed by the governor.—(Article IV, section 22.)

## ARTICLE V. THE JUDICIARY.

### Art. V, Sects 1, 2.

#### Judicial Power.

Section 1. The judicial power of the commonwealth shall be vested in a supreme court, a superior court, courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, justices of the peace, and in such other courts as may from time to time be established by law.

The judicial power of this commonwealth shall be vested in a supreme court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the general assembly may from time to time establish.—(Article V, section 1.)

#### Supreme Court.

Section 2. The supreme court shall consist of seven judges learned in the law, who shall have the title of justice, chosen by the electors of the commonwealth. They

The supreme court shall consist of seven judges, who shall be elected by the qualified electors of the state at large. They shall hold their offices for the term of twenty-one years, if they

## Corresponding provisions in present Constitution

shall hold office for twenty-one years and shall not again be eligible. The judge longest in continuous service shall be chief justice.

## Jurisdiction of Supreme Court.

Section 3. The jurisdiction of the supreme court shall extend over the state, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties. It shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to officers of the commonwealth whose jurisdiction extends over the state, but shall not exercise other original jurisdiction.

The supreme court shall have jurisdiction to review in all cases the action of other courts and until otherwise prescribed by law the manner of exercising such jurisdiction shall be that prescribed when this constitution becomes effective.

so long behave themselves well, but shall not be again eligible. The judge whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice.—(Article V, section 2.)

The jurisdiction of the supreme court shall extend over the state, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to all officers of the commonwealth whose jurisdiction extends over the state, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, certiorari or writ of error in all cases, as is now or may hereafter be provided by law.—(Article V, section 3.)

### Regulative Power and Duty of Supreme Court.

Section 4. The supreme court shall regulate procedure in courts of record and shall adapt the processes of justice to the necessities of all litigants.

In the discharge of these duties it may regulate forms of action, pleading and practice, the keeping of judicial records, and the conditions under which fees and costs may be remitted and counsel assigned without expense to litigants.

Regulations, when promulgated by the chief justice, shall have the force of law until modified by law and shall operate to repeal laws theretofore enacted inconsistent with such regulations.

Subject to law and to such regulations, courts of record shall have the power to make their own rules.

New.

### Superior Court.

Section 5. The superior court shall consist of seven judges learned in the law, chosen by the electors of the commonwealth. They shall hold office for twenty-one years and shall not again be eligible. The judge longest in continuous service shall be president judge.

New.

Corresponding provisions in present Constitution

Jurisdiction of Superior Court.

Section 6. Until otherwise prescribed by law, the superior court shall have the jurisdiction vested in it when this constitution becomes effective.

Judicial Districts.

Section 7. The state shall be divided by law into judicial districts. A county having fifty thousand inhabitants may constitute a separate district. No county shall be divided in the formation of a district and not more than four counties shall be included in a district.

Courts of Common Pleas.

Section 8. In each county there shall be a court of common pleas consisting of one or more judges learned in the law, chosen by the electors of the judicial district in which the county is situated. They shall hold office for

New.

Whenever a county shall contain fifty thousand inhabitants it may constitute a separate judicial district \* \* \*. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or, if necessary, may be attached to contiguous districts, as the general assembly may provide. \* \* \* (Article V, section 5.)

\* \* \* Not more than four counties shall at any time be included in one judicial district organized for such courts (Article V, section 4.)

Until otherwise directed by law, the courts of common pleas shall continue as at present established, except as herein changed; \* \* \* (Article V, section 4.)

Whenever a county shall contain forty thousand inhabitants

ten years. The judge longest in continuous service shall be the president judge. The office of associate judge not learned in the law is abolished, but associate judges in office when this constitution becomes effective shall hold office for their unexpired terms.

### Jurisdiction of Courts of Common Pleas.

Section 9. The court of common pleas of each county shall have original jurisdiction in civil cases except where such jurisdiction shall be vested by law in other courts. It shall have power to issue writs of certiorari to justices of the peace and to inferior courts not of record and, except where otherwise prescribed by law shall have jurisdiction in appeals from justices of the peace. It shall have the chancery jurisdiction vested in the courts of common pleas when this constitution becomes effective.

it \* \* \* shall elect one judge learned in the law and the general assembly shall provide for additional judges as the business of the said districts may require. \* \* \*  
—(Article V, section 5.)

All judges required to be learned in the law, except the judges of the supreme court shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; \* \* \*  
(Article V, section 15.)

\* \* \* The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this constitution shall be adopted shall serve for their unexpired terms.—  
(Article V, section 5.)

Judges of the courts of common pleas learned in the law \* \* \* within their respective districts shall be justices of the peace as to criminal matters.—(Article V, section 9.)

The judges of the courts of common pleas, within their respective counties, shall have power to issue writs of certiorari to justices of the peace and other inferior courts not of record, and to cause their proceedings to be brought before them, and right and justice to be done.—(Article V, section 10.)

The several courts of common pleas, besides the powers herein conferred, shall have and exercise, within their respec-

## Corresponding provisions in present Constitution

In addition to the powers conferred in this section, and until otherwise prescribed by law, the courts of common pleas shall have the jurisdiction vested in them when this constitution becomes effective.

A judge of a court of common pleas shall be, in the county, a justice of the peace as to criminal matters.

## Common Pleas Court in Philadelphia.

Section 10. In the county of Philadelphia the jurisdiction of the several courts of common pleas shall be vested in one court of common pleas. Until otherwise prescribed by law, the court shall be composed of fifteen judges. The first judges shall be those holding office in the several courts of common pleas when this constitution becomes effective. The judge longest in continuous service shall be president judge.

## Criminal Courts.

Section 11. In each county there shall be a court of oyer and terminer and general jail delivery and a court

tive districts, subject to such changes as may be made by law, such chancery powers as are now vested by law in the several courts of common pleas of this commonwealth, or as may hereafter be conferred upon them by law.—(Article V, section 20.)

New.

Judges of the courts of common pleas learned in the law shall be judges of the courts of oyer and terminer, quarter



of quarter sessions of the peace. The judges of the court of common pleas of the county shall be the judges of such courts.

### Orphans' Courts.

Section 12. In each county there shall be an orphans' court.

In a county having more than one hundred and fifty thousand inhabitants there may be a separate orphans' court with the jurisdiction of orphans' courts when this constitution becomes effective and with other jurisdiction as prescribed by law. Such courts shall consist of one or more judges learned in the law, chosen by the electors of the county. They shall hold office for ten years. The judge longest in continuous service shall be president judge.

In a county with a separate orphans' court, the register of wills of the county shall be the clerk thereof. He shall appoint assistant clerks only with the approval of the court. Accounts filed with him as register or as clerk shall be audited by the court without expense to the parties, unless the court shall appoint, in its discretion, an auditor nominated by all parties in interest represented in the proceeding.

In a county without a separate orphans' court, the judges of the court of common pleas shall be the judges

sessions of the peace and general jail delivery, and of the orphans' court, \* \* \*.—(Article V, section 9.)

In every county wherein the population shall exceed one hundred and fifty thousand, the general assembly shall, and in any other county may, establish a separate orphans' court, to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' courts, and thereupon the jurisdiction of the judges of the court of common pleas within such county, in orphans' court proceedings shall cease and determine. In any county in which a separate orphans' court shall be established, the register of wills shall be clerk of such court, and subject to its directions, in all matters pertaining to his office; he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint. In every county orphans' courts shall possess all the powers and jurisdiction of a registers' court, and separate registers' courts are hereby abolished.—(Article V, section 22).

Corresponding provisions in present Constitution

of the orphans' court, but only until the establishment of a separate orphans' court.

All judges required to be learned in the law, except the judges of the supreme court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well \* \* \*—(Article V, section 15).

Judges of the courts of common pleas learned in the law shall be judges \* \* \* of the orphans' court \* \* \*—(Article V, section 9.)

Justices of the Peace Not in Philadelphia.

Section 13. Each county, except the county of Philadelphia, shall be divided by its court of common pleas into justice of the peace districts. A borough, township or city with a population of fifty thousand or less shall not be divided. A district may be composed of two or more townships or boroughs or any borough or township may be attached to a district comprising all or a portion of a city. In a city with a population of more than fifty thousand, the number of inhabitants shall be divided by fifty thousand and the number of districts to which the city shall be entitled shall be the

Except as otherwise provided in this constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs and townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preced-

quotient. Population shall be determined by the latest United States decennial census. After each decennial census the court of common pleas may create new districts and may change the boundaries of districts. After any such revision of the districts, no new district shall be created and no change of boundary shall be made prior to the next decennial census.

In each district one justice of the peace shall be chosen by the electors at a municipal election. He shall have been a resident of his district for two years next preceding the election unless absent on the public business of the United States, of the state government or of a municipality of the commonwealth. He shall hold office for six years from the first Monday after his election. Upon petition of at least two hundred electors of the district setting forth a reasonable cause for his removal, he shall be removed from office by the court of common pleas if the court, after hearing, finds such cause to exist. In such event a justice of the peace may appeal to the superior court. A vacancy in the office of justice of the peace shall be filled by the governor.

For services rendered in judicial proceedings a justice of the peace shall receive a salary prescribed by law and paid by the county, and no other compensation. Fees, fines and penalties received in judicial proceedings

ing his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.—(Article V, section 11, amendment of Nov. 2, 1909.)

All fees, fines and penalties in said courts shall be paid into the county treasury. — (Article V, section 13).

Proposed Constitution	Corresponding provisions in present Constitution
<p>by a justice of the peace shall be paid into the county treasury for the use of the county.</p> <p>Until otherwise prescribed by law, justices of the peace in any county shall have the jurisdiction and powers of the justices of the peace of the county existing when this constitution becomes effective.</p> <p>Justices of the peace in office when this constitution becomes effective shall serve their unexpired terms. On the expiration of such terms, the office of justice of the peace as theretofore existing is abolished. Vacancies occurring prior to the expiration of such terms shall not be filled.</p>	<p><b>Justices of the Peace in Philadelphia.</b></p> <p>Section 14. The county of Philadelphia shall be divided by its court of common pleas into eighteen justice of the peace districts as nearly equal in population as possible. After each United States decennial census, the court of common pleas may create new districts and may alter the boundaries of districts. After any such revision of the districts, no new district shall be created and no change of boundary shall be made prior</p>
	<p>In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be six years and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be</p>

elected when more than one are to be chosen; they shall be compensated only by fixed salaries to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by the law. In Philadelphia the office of aldermen is abolished.—(Article V, section 12, amendment of November 2, 1909.)

All fees, fines and penalties in said courts shall be paid into the county treasury.—(Article V, section 13.)

to the next decennial census. The number of districts shall not exceed one for each one hundred thousand of population.

In each district one justice of the peace learned in the law shall be chosen by the electors of the district at a municipal election. His other qualifications, his term, and the method of his removal and of filling a vacancy in his office shall be as in the case of justices of the peace in other counties. For services rendered in judicial proceedings, he shall receive a salary prescribed by law and paid by the county and no other compensation. Fees, fines and penalties received in judicial proceedings by a justice of the peace shall be paid into the county treasury for the use of the county.

A justice of the peace shall hold a court not of record of police and civil cases. His jurisdiction in civil matters shall be limited to matters involving three hundred dollars or less and except as otherwise provided in this section shall be similar to that of justices of the peace in other counties. No political duties shall be imposed on him.

Rules of procedure for the justices of the peace not inconsistent with law or with the regulations of the supreme court shall be prescribed by the court of common pleas of the county of Philadelphia.

Proposed Constitution	Corresponding provisions in present Constitution
<p>Magistrates in office when this constitution becomes effective shall serve their unexpired terms. On the expiration of such terms, the office of magistrate as theretofore existing is abolished. Vacancies occurring prior to the expiration of such terms shall not be filled.</p> <p>The provisions of this section may be changed or abolished by law.</p>	<p>New.</p>
<p>Judgeships to be Numbered.</p>	
<p>Section 15. In every court composed of two or more judges required to be learned in the law, each judgeship shall, for the purpose of election or appointment thereto, be deemed a separate office and be distinguished by number from the other judgeships in the same court. Judgeships existing when this constitution becomes effective shall be taken to be numbered in the respective courts in the order of the seniority in commission of the judges occupying them.</p>	<p>Should any two or more judges of the supreme court, or any two or more judges of the court of common pleas for the</p>
<p>Determining Priority.</p>	
<p>Section 16. Before two or more judges of the same court begin service on the same day, they shall cast lots</p>	

to determine who shall be deemed first to have begun service and shall certify the result to the governor.

#### Residence of Judges.

Section 17. The judges of the supreme court and of the superior court shall reside in the state. A judge of another court or a justice of the peace shall reside in the district for which he has been elected.

#### Compensation of Judges and of Justices of the Peace.

Section 18. A judge or a justice of the peace required to be learned in the law shall receive for his services an adequate salary prescribed by law, and no other compensation. A judge required to be learned in the law shall be paid by the state government.

#### Duties of Courts to be Judicial Only.

Section 19. No duties shall be imposed on a court or judge except such as relate to the administration of justice, to the conduct of the business of the court, or

same district, be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of commission, and certify the result to the governor, who shall issue their commissions in accordance therewith.—(Article V, section 17.)

The judges of the supreme court, during their continuance in office, shall reside within this commonwealth; and the other judges, during their continuance in office, shall reside within the districts for which they shall be respectively elected.—(Article V, section 19.)

The judges of the supreme court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation which shall be fixed by law, and paid by the state. They shall receive no other compensation, fees, or perquisites of office for their services from any source; \* \* \* (Article V, section 18.)

No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appoint-

Art. V, Secs. 20, 21, 22, 23, 24

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to the conduct of elections. After the adjournment of the first session of the general assembly following the time when this constitution becomes effective, no powers of appointment shall be exercised by a court or judge except such as relate to their duties or to the management of public law libraries, the inspection and management of prisons, the visitation of public institutions, the condemnation of private property, and the administration of public trusts, of public parks or of public works. Other powers of appointment vested in a court or judge shall be abolished or vested elsewhere by law.

Power to Change Venue.

Section 20. The power to change the venue shall be vested in the courts and exercised as prescribed by law.

Appeals to Supreme Court in Homicide Cases.

Section 21. A person sentenced for felonious homicide may remove the indictment, record and all proceedings to the supreme court for review.

Corresponding provisions in present Constitution

ment except as herein provided. The court of nisi prius is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the supreme court shall be established.—(Article V, section 21.)

The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law.—(Article III, section 23.)

In all cases of felonious homicide, and in such other criminal cases as may be provided for by law, the accused, after conviction and sentence may remove the indictment, record and all proceedings, to the supreme court for review.—(Article V, section 24.)



### Appeals From Courts Not of Record.

Section 22. A person summarily convicted, or a party to a suit for a penalty before a justice of the peace or in a court not of record, may appeal to a court of record in the manner prescribed by law.

### Process and Indictments.

Section 23. The style of process shall be "The Commonwealth of Pennsylvania." Prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania. Indictments shall conclude "against the peace and dignity of the commonwealth of Pennsylvania."

### Trial Without Jury.

Section 24. If the parties to a civil case shall agree to dispense with a trial by jury, the court shall hear the case and shall deliver a judgment having the same effect as if there had been such trial by jury.

In all cases of summary conviction in this commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.—(Article V, section 14.)

The style of all process shall be "The Commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."—(Article V, section 23.)

The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.—(Article V, section 27.)

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Employment of Counsel and Graded Costs.

Section 25. Laws shall be enacted, applicable to courts of record and to such other courts as may be deemed proper, providing that the counties shall compensate counsel assigned to serve without expense to litigants. The costs of litigation may be classified or graded by law according to the amounts in controversy.

New.

ARTICLE VI.

SUFFRAGE AND ELECTIONS.

Qualifications of Electors.

Section 1. A citizen of the commonwealth shall be entitled to vote at elections who has:

1. Reached the age of twenty-one;
2. Been a citizen of the United States at least thirty days;
3. Resided in the state immediately preceding the election for one year, or, if he is a native of

Every male citizen of twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of electors as the general assembly may enact:

1. He shall have been a citizen of the United States at least one month.

2. He shall have resided in the state one year (or, having previously been a qualified elector or native-born citizen of the state, he shall have removed therefrom and returned, then six months) immediately preceding the election.

3. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

4. If twenty-two years of age and upwards, he shall have paid within two years a state or county tax, which shall have been assessed at least two months and paid at least one month before the election.—(Article VIII, section 1, amendment of November 5, 1901.)

For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this state or of the United States, nor while engaged in the navigation of the waters of the state or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison.—(Article VIII, section 13.)

the commonwealth or has been an elector, then for six months immediately preceding the election;

4. Resided for sixty days next preceding the election in the election district where he shall offer to vote;

5. Complied with the law regulating the registration of electors.

The right to vote and to hold office shall not be denied on account of race, color or sex.

### Residence of Electors.

Section 2. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence or to have lost it by reason of his absence while in the service of the United States, of the state government or of a municipality of the commonwealth, or while navigating the waters of the United States or the high seas, or while a student of an institution of learning, or while kept in an institution at public expense, or while confined in prison.

Proposed Constitution	Corresponding provisions in present Constitution
<p><b>Voting in Military or Naval Service.</b></p> <p>Section 3. When an elector shall be absent in the military or naval service of the commonwealth or of the United States under a requisition by the President, he may vote as if he were present in his place of residence, subject to regulations prescribed by law.</p>	<p>Whenever any of the qualified electors of this commonwealth shall be in actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.—(Article VIII, section 6.)</p>
<p><b>Privileges of Electors.</b></p> <p>Section 4. Electors shall, except in cases of treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.</p>	<p>Electors shall in all cases except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.—(Article VIII, section 5.)</p>
<p><b>Election Offenses.</b></p> <p>Section 5. A person who shall give, or promise or offer to give a valuable consideration or reward for a vote at an election or for the withholding thereof, or who shall receive or agree to receive, for himself or for another, a valuable consideration or reward for a vote at an election</p>	<p>Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such electors' vote or for the with-</p>

or for the withholding thereof, shall forfeit the right to vote at such election. An elector whose right to vote shall be challenged for such cause before the election officers shall be required to swear or affirm that the subject matter of the challenge is untrue before his vote shall be received.

A person convicted of wilful violation of an election law shall, in addition to the penalties prescribed by law, lose for four years the right to vote.

In a trial of a contested election and in an investigation of elections, no testimony shall be withheld on the ground that it may criminate the witness or subject him to infamy. Such testimony shall not afterwards be used against him in a judicial proceeding except in a prosecution for perjury in giving such testimony.

### Election Districts.

Section 6. Townships and wards of cities or boroughs shall form or shall be divided into election districts of compact and contiguous territory as the court of quarter sessions may direct.

holding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.—(Article VIII, section 8.)

\* \* \* and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.—(Article VIII, section 9.)

In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony.—(Article VIII, section 10.)

Townships, and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct;

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An election district in a city of over one hundred thousand inhabitants shall be divided by the court of quarter sessions when at the next preceding election more than two hundred and fifty votes have been polled therein. Any other election district shall be divided when the court of quarter sessions shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.

but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions, having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.—(Article VIII, section 11.)

## Election Officers.

Section 7. In each election district there shall be an election board consisting of a judge and two inspectors chosen by the electors of the district. They shall hold office for two years. Each elector may vote for one candidate for judge and for one candidate for inspector. Vacancies in election boards shall be filled and election boards in new districts shall be created as prescribed by law. Each inspector shall appoint one clerk at each election. An election officer or clerk shall be privileged from arrest upon days of election and while engaged in making up and transmitting returns, except upon warrant of a court of record or of a judge thereof for election fraud.

District election boards shall consist of a judge and two inspectors, who shall be chosen annually by the citizens. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.—(Article VIII, section 14.)

for felony, or for wanton breach of the peace. In a city he shall be exempt from jury duty.

### Overseers of Elections.

Section 8. The courts of common pleas shall appoint two persons, of different political parties, qualified to serve on an election board, to be overseers of election in a district on petition of five electors of the county setting forth that such appointment is a reasonable precaution to secure the purity and fairness of the election. All the judges of the court able to act at the time shall concur in the appointment.

The overseers of election, if they shall agree, shall decide any question with respect to the conduct of the election on which the members of the election board shall differ.

### Time of Holding Elections.

Section 9. The general election shall be held in each even-numbered year and the municipal election shall be held in each odd-numbered year. Each shall

The courts of common pleas of the several counties of the commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required; such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each case members of different political parties; whenever the members of an election board shall differ in opinion the overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all law judges of the proper court, able to act at the time, shall concur in the appointments made.—(Article VIII, section 16.)

The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year, but the general assembly may by law fix a different

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be held on the Tuesday next following the first Monday in November unless, with the consent of two-thirds of the members of each house of the general assembly, a different day shall be prescribed by law.

## Secrecy in Voting.

Section 10. Elections by the citizens shall be by ballot or by other methods as prescribed by law. Secrecy in voting shall be preserved.

## Trial of Contested Elections.

Section 11. The courts shall determine in the first instance contested elections of members of the general

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ent day, two-thirds of all the members of each house consenting thereto: provided, that such election shall always be held in an even-numbered year.—(Article VIII, section 2, amendment of November 2, 1909.)

\* \* \* All elections (for certain offices enumerated) be held on the municipal election day; namely, the Tuesday next following the first Monday of November in each odd-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house, consenting thereto: provided, that such elections shall be held in an odd-numbered year. \* \* \*.—(Article VIII, section 3.)

All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: provided, that secrecy in voting be preserved.—(Article VIII, section 1, amendment of Nov. 5, 1901.)

The trial and determination of contested elections of electors of president and vice president, members of the general as-



assembly, of governor and of lieutenant-governor. They shall finally determine all other contested elections. Laws shall be enacted designating the courts and judges by whom the several classes of election contests shall be tried, and regulating the manner of trial and matters incident thereto. No law assigning jurisdiction, or regulating its exercise, shall apply to a contest arising out of an election held before its enactment.

#### Elections by Representative Bodies.

Section 12. Elections by representative bodies shall be viva voce.

ssembly, and of all public officers, whether state, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof; the general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.—(Article VIII, section 17.)

All elections by persons in a representative capacity shall be viva voce.—(Article VIII, section 12.)

### ARTICLE VII.

#### PUBLIC SERVANTS.

##### Times of Elections.

Section 1. Judges elected by the electors of the commonwealth at large may be elected at general or municipal elections as prescribed by law.

Other officers elected by the electors of the commonwealth at large shall be elected at general elections.

All judges elected by the electors of the state at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward, borough, and township officers, for regular terms of service, shall

Proposed Constitution	Corresponding provisions in present Constitution
<p>Officers not elected by the electors of the commonwealth at large shall be elected at municipal elections.</p> <p>Special election days to fill unexpired terms may be prescribed by law.</p>	<p>be held on the municipal election day * * *.—(Article VIII, section 3, Amendment of November 4, 1913.)</p> <p>* * * elections of state officers shall be held on a general election day and elections of local officers shall be held on a municipal election day, except when, in either case, special elections may be required to fill unexpired terms.—(Article XII, section 1, Amendment of November 2, 1909.)</p>
<p style="text-align: center;"><b>Incompatible Offices.</b></p> <p>Section 2. No person shall be a member of the general assembly or shall hold under the state government or under a municipality an office or place of trust or profit in respect of which he shall receive compensation, if he is a member of the congress or if he holds under the United States an office or place of trust or profit in respect of which he shall receive compensation.</p> <p>No person who holds the office of governor or, except as expressly provided in this constitution, of lieutenant-governor shall hold under the state government or under a municipality another office of trust or profit.</p> <p>No person who holds under the state government the office of judge learned in the law shall hold under a</p>	<p>No member of congress from this state, or any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this state to which a salary, fees or perquisites shall be attached. The general assembly may by law declare what offices are incompatible.—(Article XI, section 2.)</p> <p>No member of congress or person holding any office under the United States or this state shall exercise the office of governor or lieutenant governor.—(Article IV, section 6.)</p> <p>The justices of the supreme court, and the judges of the several courts of common pleas, and all other judges required to be learned in the law, * * * shall receive no other compensation * * * nor hold any other office of profit un-</p>

municipality an office or place of trust or profit in respect of which he shall receive compensation.

No member of the general assembly shall, during the term for which he has been elected, hold under the state government or under a municipality an appointive office or place of trust or profit.

The office of attorney-at-law and office in the militia shall not be deemed an office or place of trust or profit within the meaning of this section.

Laws may be enacted declaring what other offices or places of trust or profit are incompatible with each other or with membership in the general assembly.

### Disqualifications From Holding Office.

Section 3. No person shall be a member of the general assembly or shall hold, under the state government or under a municipality, an office or place of trust or profit if he has

- (a) Been convicted of embezzlement of public money, of bribery, of attempted bribery, of perjury or other infamous crime, or of fraud in con-

der the United States, this state or any other state.—(Article V, section 18.)

No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth, and no member of congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this commonwealth shall be a member of either house during his continuance in office.—(Article II, section 6.)

No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the government of the United States or of this state, or of any city, or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the state \* \* \* \*—(Article VIII, section 15.)

No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime shall be eligible to the general assembly or capable of holding any office of trust or profit in this commonwealth.—(Article II, section 7.)

\* \* \* any person convicted of either of the offenses aforesaid (i. e., bribery or corrupt solicitation) shall, as part of the punishment therefor, be disqualified from holding any office

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nection with an election while a candidate for office, or of wilful violation of an election law while a candidate for office;

(b) Been convicted of having within five years, being a member of the general assembly or an officer of the state government, used the money of the state government for an unauthorized purpose or made a profit therefrom;

(c) Been convicted upon impeachment;

(d) Served as an election officer at the election at which such position of member of the general assembly or office or place of trust or profit was filled, except in the case of such municipal offices, other than county or city offices, as may be prescribed by law.

or position of honor, trust or profit in this commonwealth.—(Article III, section 32.)

Any person who shall, while a candidate for office, be guilty of bribery, fraud or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this commonwealth; \* \* \*—(Article VIII, section 9.)

The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the state, or member or officer of the general assembly \* \* \* but part of such punishment shall be disqualification to hold office for a period of not less than five years.—(Article IX, section 14.)

\* \* \* but judgment in such cases (cases of impeachment) shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth \* \* \*—(Article VI, section 3.)

\* \* \* any person (i. e., a member of the general assembly, officers of the state government and county officers) refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely or of having violated said oath or affirmation (oath of office) shall be \* \* \* forever disqualified from holding

any office of trust or profit within this commonwealth \*  
\*—(Article VII, section 1.)

\* \* \* nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law.—(Article VIII, section 15.)

Senators and representatives and all judicial, state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth; and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

### Official Oath.

Section 4. Members of the general assembly, officers of the state government and county officers shall before entering on the duties of their offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States and the constitution of the Commonwealth, and that I will discharge the duties of my office with fidelity."

The foregoing oath shall be administered by a person authorized to administer oaths. In the case of judges of the supreme court and of the superior court and of executive officers of the state government, the oath shall be filed in the office of the secretary of the Commonwealth. In the case of other judicial officers and of county officers, the oath shall be filed in the office of the prothonotary of the county in which it is taken. A person refusing to take such oath or affirmation shall forfeit his office.

Proposed Constitution	Corresponding provisions in present Constitution
<p>A person who shall be convicted of having sworn or affirmed falsely, or of having violated such oath or affirmation, shall be guilty of perjury, and shall be forever disqualified from holding any office of trust or profit in the commonwealth. The oath shall be administered to a member of the general assembly by a judge of the supreme court or of a court of common pleas, in the hall of the house to which the affiant has been elected.</p>	<p>The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of state officers and judges of the supreme court, shall be filed in the office of the secretary of the commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this commonwealth. The oath to the members of the senate and house of representatives shall be administered by one of the judges of the supreme court or of a court of common pleas learned in the law in the hall of the house to which the members shall be elected.—(Article VII, section 1.)</p>
<p>Extension of Term and Change of Compensation.</p>	
<p>Section 5. The term of a public officer shall not be extended and his compensation shall not be increased or decreased after his election or appointment except that the compensation of a judge required to be learned in the law may be increased.</p>	<p>No law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment.—(Article III, section 13.)</p>

### Impeachment.

Section 6. All officers of the state government shall be liable to impeachment for a misdemeanor in office. The power of impeachment shall be vested in the house of representatives. An impeachment shall be tried by the senate after each senator has been put on special oath or affirmation. The person impeached can be convicted only with the consent of two-thirds of the senators present. Such conviction shall operate to remove from office the person convicted and to disqualify him from holding a public office or place of trust or profit, but shall extend no further. The person impeached, whether acquitted or convicted, may be liable to indictment, trial, judgment and punishment as prescribed by law.

### Removal Otherwise Than by Impeachment.

Section 7. An officer who shall be convicted of an infamous crime or of a crime the commission of which involves the violation of an obligation imposed on him as an officer, shall thereby forfeit his office and shall be otherwise punished as prescribed by law.

Appointed officers, other than judges of courts of record, may be removed at the pleasure of the appointing power.

The house of representatives shall have the sole power of impeachment.—(Article VI, section 1.)

All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.—(Article VI, section 2.)

The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.—(Article VI, section 3.)

All judges required to be learned in the law except the judges of the supreme court \* \* \* for any reasonable cause, which shall not be sufficient ground for impeachment, the governor may remove any of them on the address of two-thirds of each house of the general assembly.—(Article V, section 15.)

All officers \* \* \* shall be removed on conviction of misbehavior in office, or of any infamous crime. Appointed officers, other than judges of the courts of record and the

Proposed Constitution	Corresponding provisions in present Constitution
<p>Elected officers of the state government, except the governor, the lieutenant-governor, and judges of the courts of record, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the senate.</p> <p>Judges of courts of record, other than the judges of the supreme and superior courts, may be removed by the governor for reasonable cause after due notice and full hearing on the address of two-thirds of each house of the general assembly.</p>	<p>superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except governor, lieutenant-governor, members of the general assembly and judges of the courts of record learned in the law, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the senate.—(Article VI, section 4.)</p>
<p><b>Appointments and Promotions.</b></p>	
<p>Section 8. Appointments and promotions in the civil service of the state government and of municipalities shall be according to merit and fitness to be ascertained, so far as practicable, by competitive examination.</p>	<p>New.</p>
<p><b>Bribery.</b></p>	
<p>Section 9. A member of the general assembly, or an officer or employe of the state government or of a municipality, who shall receive or agree or offer to receive for</p>	<p>A member of the general assembly who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person,</p>



himself or for another any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof to influence the performance of a public duty, or a person who shall give or promise or offer to give any money, or thing of value, testimonial, privilege, or personal advantage to a member of the general assembly or to an officer or employee of the state government or of a municipality, to influence him in the performance of a public duty, shall be guilty of bribery, and shall be punished as prescribed by law.

In a prosecution for bribery or attempted bribery, or in an investigation thereof, no witness except the accused shall be permitted to withhold his testimony on the ground that it may criminate him or subject him to infamy. Such testimony shall not afterwards be used against the witness in a judicial proceeding except in a prosecution for perjury in giving such testimony.

any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing, to another, shall be held guilty of bribery within the meaning of this constitution, and shall incur the disabilities provided thereby for said offense, and such additional punishment as is or shall be provided by law.—(Article III, section 29.)

Any person who shall, directly or indirectly, offer, give, or promise, any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer, or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.—(Article III, section 30.)

The offense of corrupt solicitation of members of the general assembly or of public officers of the state or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action,

Proposed Constitution	Corresponding provisions in present Constitution
	shall be defined by law and shall be punished by fine and imprisonment.—(Article III, section 31.)
	Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony, * * * —(Article III, section 32.)

## ARTICLE VIII.

## TAXATION AND FINANCE.

## Method of Taxation.

Section 1. Taxes shall be levied and collected only as prescribed by general law. A tax shall be uniform upon the same class of subjects within the territorial limits of the taxing authority, except that an income or

All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general law; \* \* \* —(Article IX, section 1.)

a decedent's estate below a minimum prescribed by law may be exempted from income and inheritance taxes.

Laws may be enacted providing for the levying and collecting of a special tax on anthracite coal when prepared for market. An appropriation not exceeding the amount of the proceeds of such tax may be made by law for the relief of persons, corporations, associations and municipalities injured or damaged by surface subsidence resulting from past or future mining of anthracite coal.

#### Exemption from Taxation.

Section 2. Laws may exempt from taxation only public property used for public purposes, places used for religious worship, places of burial not used or held for private profit, and institutions of purely public charity. Private property used for a part or all of the time for educational purposes shall only be exempted if the basic language of instruction is English and if the educational standards are as high as in the public institutions with which it is intended to compete.

#### Power to Tax not to be Surrendered.

Section 3. The power to tax shall not be surrendered or suspended by contract or grant.

\* \* \* the general assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.—(Article IX, section 1.)

All laws exempting property from taxation, other than the property above enumerated, shall be void.—(Article IX, section 2.)

The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.—(Article IX, section 3.)

## Proposed Constitution

## Corresponding provisions in present Constitution

**Limitation on State Debt.**

Section 4. A debt shall be created by the state government only to supply casual deficiencies of revenue not exceeding one million dollars, to repel invasion, to suppress insurrection, to defend the commonwealth in war, to pay existing debts, to improve and rebuild highways in the state and to acquire land in the state for forest purposes. A debt for highways shall not be incurred in excess of one hundred and fifty million dollars, or for forest purposes in excess of twenty-five million dollars. A debt for highway or forest purposes shall be created only with the consent of two-thirds of each house of the general assembly and with the consent of a majority of the electors of the commonwealth voting on the question; except that the adoption of this constitution by the electors shall be taken to authorize a law providing for the issuance of bonds for forest purposes not in excess of three million, one hundred and twenty-five thousand dollars annually for eight years.

No debt shall be created by or on behalf of the state, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the state in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed in the aggregate, at any one time, one million dollars: Provided, however, That the general assembly, in respective of any debt, may authorize the state to issue bonds to the amount of fifty millions of dollars for the purpose of improving and rebuilding the highways of the commonwealth.

(Article IX, section 4, amendment of Nov. 5, 1918.)

### Law Shall State Purpose of Loan.

Section 5. A law authorizing the borrowing of money by the state government shall specify the purpose of the loan. The money borrowed shall be used only for such purpose.

### Amortization of State Debt.

Section 6. The state government shall not incur a debt maturing more than fifty years thereafter.

If serial bonds are issued for a debt, the aggregate amount of principal and interest payable in respect to the debt in any year shall not be less than the amount payable in any later year.

If serial bonds are not issued, the state government shall maintain by law a sinking fund sufficient to pay the accruing interest on such debt and annually to reduce the principal by a sum not less than three per centum of such principal. The money of the sinking fund shall be invested only in the bonds of the United States or of the state government.

All laws, authorizing the borrowing of money by and on behalf of the state, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other.—(Article IX, section 5.)

To provide for the payment of the present state debt, and any additional debt contracted as aforesaid, the general assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the state not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt.—(Article IX, section 11.)

\* \* \* and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except

Proposed Constitution	Corresponding provisions in present Constitution
<p style="text-align: center;"><b>State Credit Not to be Pledged.</b></p> <p>Section 7. The state government shall not pledge or lend its credit to an individual, corporation or association and shall not become a stockholder or an owner in a corporation or association.</p>	<p>the bonds of the United States or of this state.—(Article IX, section 12.)</p>
<p style="text-align: center;"><b>Municipal Debt Not to be Assumed by State.</b></p> <p>Section 8. The state government shall not assume the debt of a municipality unless contracted to enable the commonwealth to repel invasion, to suppress insurrection or to defend itself in war.</p>	<p>The credit of the commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the commonwealth become a joint owner or stockholder in any company, association or corporation.—(Article IX, section 6.)</p>
<p style="text-align: center;"><b>Reserve Funds.</b></p> <p>Section 9. The money held as necessary reserve by the state government shall be limited by law to the</p>	<p>The commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the state to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the state in the discharge of any portion of its present indebtedness.—(Article IX, section 9.)</p> <p>The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be</p>

amount required for current expenses and shall be secured and kept as prescribed by law. Monthly statements shall be published showing the amount of such money, where it is deposited, and how it is secured.

### **Paying Out Public Money.**

Section 10. Money shall be paid out of the state treasury only on appropriations made by law and on warrant by the proper officer in pursuance thereof.

### **Misuse of Public Moneys.**

Section 11. An officer or an employe of the state government or of a municipality or a member of the general assembly who shall make or attempt to make a profit out of the money of the state government or of a municipality or shall use it for an unauthorized purpose, shall be guilty of a misdemeanor and shall be punished as prescribed by law.

secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.—(Article IX, section 13.)

No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant by the proper officer in pursuance thereof.—(Article III, section 16.)

The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the state, or member or officer of the general assembly, shall be a misdemeanor and shall be punished as may be provided by law. \* \* \*—(Article IX, section 14.)

# ARTICLE IX. CORPORATIONS.

Art. IX, Secs. 1, 2, 3, 4, 5

Proposed Constitution	Corresponding provisions in present Constitution
<p><b>Corporate Powers.</b></p>	
<p>Section 1. A corporation shall engage only in the business authorized by its charter.</p>	<p>No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.—(Article XVI, section 6.)</p>
<p><b>Stocks and Bonds.</b></p> <p>Section 2. Subject to such regulations as to issue and sale as may be prescribed by law or by an agency established by law, shares of stock may be issued with or without par value. Shares of stock having par value shall be issued as full paid only for the equivalent of such par value in money, labor done or property received, except that a corporation may issue additional full paid shares as prescribed by law or by an agency created by law for a consideration in money, labor or property equal to the current market value of its shares theretofore issued. Neither the stock nor the indebtedness of corporations shall be increased except in pursuance of general law or without the consent of the holders of the larger amount in value of the stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.</p>	<p>No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, first obtained at a meeting to be held after sixty days' notice given in pursuance of law.—(Article XVI, section 7.)</p>



### Investment of Trust Funds.

Section 3. No law shall authorize fiduciaries to invest in stock or securities issued by a corporation except in bonds approved by an agency created by law.

### Bank Notes and Bills.

Section 4. A note or bill issued for circulation by a banking corporation shall be registered and countersigned by an officer of the state government, and its payment shall be secured by the deposit of security to the full amount thereof with the state treasurer. The method of registering, countersigning and securing payment shall be prescribed by law.

### Cumulative Voting

Section 5. In elections for directors or managers of a corporation each member or voting stockholder may cast his votes for one candidate, or may distribute them among two or more candidates.

No act of the general assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and such acts now existing are avoided saving investments heretofore made.—(Article III, section 22.)

Every banking law shall provide for the registry and countersigning, by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the auditor general for the redemption of such notes or bills.—(Article XVI, section 9.)

In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.—(Article XVI, section 4.)

Proposed Constitution	Corresponding provisions in present Constitution
<p><b>Foreign Corporations.</b></p> <p>Section 6. A foreign corporation shall not do business in this state without having in the state a known place of business and without making the secretary of the commonwealth an agent of the corporation upon whom process may be served.</p>	<p>No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.—(Article XVI, section 5.)</p>
<p><b>Commonwealth's Rights of Eminent Domain and Police Power.</b></p>	
<p>Section 7. The exercise of the right of eminent domain shall not be abridged or so construed as to prevent the taking by law of the property and franchises of corporations and subjecting them to public use the same as the property of individuals. The exercise of the police power shall not be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.</p>	<p>The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchise of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.—(Article XVI, section 3.)</p>
<p><b>Corporate Obligations Owned by State.</b></p> <p>Section 8. Except as prescribed by law, an obligation of a corporation held or owned by the state govern-</p>	<p>No obligation or liability of any railroad or other corporation, held or owned by the commonwealth, shall ever be ex-</p>

ment shall not be exchanged, transferred, remitted, postponed, diminished or discharged except by payment thereof into the state treasury.

### Statutes of Limitations.

Section 9. No law shall discriminate between corporations and individuals with respect to the time in which suit may be brought against either.

### Revocation and Alteration of Corporate Charters.

Section 10. Laws may be enacted for the alteration, revocation, or annulment of corporate charters revocable when this constitution becomes effective or thereafter granted when such charters shall be deemed injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done.

### Conditions Imposed on Benefits to Corporations.

Section 11. No law shall remit the forfeiture of the charter of a corporation now existing, or amend the

changed, transferred, remitted, postponed or in any way diminished by the general assembly nor shall such liability or obligation be released, except by payment thereof into the state treasury.—(Article III, section 24.)

\* \* \* No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.—(Article III, section 21, Amendment of November 2, 1915.)

The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.—(Article XVI, section 10.)

The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend

Proposed Constitution	Corresponding provisions in present Constitution
<p>same, or otherwise benefit such corporation, except upon condition that it shall thereafter hold its charter subject to the provisions of this constitution.</p> <p style="text-align: center;"><b>Banks and Trust Companies.</b></p> <p>Section 12. Laws may be enacted to provide for the incorporation of banks and trust companies and to prescribe the powers thereof.</p>	<p>the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.—(Article XVI, section 2.)</p>
<p style="text-align: center;"><b>Definition of "Corporation."</b></p> <p>Section 13. The term "corporation" as used in this constitution includes joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.</p>	<p>The general assembly shall have the power by general law to provide for the incorporation of banks and trust companies, and to prescribe the powers thereof.—(Article XVI, section 11.)</p> <p>The term "corporations," as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.—(Article XVI, section 13.)</p>

## ARTICLE X. PUBLIC UTILITIES.

### Regulation of Public Utilities.

Section 1. Public service and the business of those engaged therein may be regulated by law or by an agency created by law.

#### Eminent Domain.

Section 2. A corporation, association, individual or municipality invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed. The compensation shall be paid or secured before such taking, injury or destruction. No law shall deprive a person of an appeal from a preliminary assessment of damages, and, on appeal, either party may have the damages assessed by a jury according to the course of the common law.

#### New.

Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party be determined by a jury according to the course of the common law.—(Article XVI, section 8.)

## Proposed Constitution

## Corresponding provisions in present Constitution

## Common Carriers, Telegraph and Telephone Lines.

Section 3. Railroads and canals shall be public highways and railroad and canal corporations shall be common carriers. Such corporations may construct and operate railroads and canals between any points within the state and may cross and connect with other railroads and canals within the state and at the state line. They shall receive, at connecting points, and shall transport, each other's passengers and freight without delay or discrimination. Railroad corporations shall receive at connecting points and transport each other's cars and canal corporations shall likewise receive and transport each other's vessels.

A corporation organized for the purpose shall have the right to construct lines of telegraph and telephone within the state. The owners or operators of telegraph or telephone lines may connect them with the telegraph and telephone lines of others. They shall receive at connecting points and shall transmit each other's messages.

The rights and obligations set forth in this section shall be exercised only as prescribed by law or by an agency created by law.

All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each the other's passengers, tonnage and cars loaded or empty, without delay or discrimination.—(Article XVII, section 1.)

Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines, and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. \* \*—(Article XVI, section 12.)

## Construction of Canals to Conform to Fixed Standards

Section 4. Provision shall be made by law for the construction of canals in accordance with standards prescribed by law or by an agency created by law.

New.

## No Discrimination in Services or Charges.

Section 5. All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals and to have messages transmitted over telegraph and telephone lines. There shall be no undue or unreasonable discrimination, in facilities or charges, for such transportation or transmission within the state or coming from or going to another state. A charge for such transportation or transmission within the state shall not exceed the charge for a similar service in the same direction to a more distant point, but excursion or commutation tickets may be issued at special rates.

All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for, transportation of freight or passengers within the state or coming from or going to any other state. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.—(Article XVII, section 3.)

## Preferences and Rebates Prohibited.

Section 6. No discrimination in charges or facilities for transportation shall be made between transportation corporations and individuals, or in favor of either, by abatement, drawback or otherwise, and no rail-

No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager

## Proposed Constitution

road or canal corporation, or any lessee, manager or employe thereof, shall make preferences in furnishing service.

## Consolidation Permitted.

Section 7. A public service corporation, when authorized by law or by an agency created by law, may consolidate with another public service corporation or may acquire its stock, property or franchises.

## Powers of Common Carriers.

Section 8. A corporation being a common carrier shall not transport over facilities which it owns or

## Corresponding provisions in present Constitution

or employe thereof, shall make any preferences in furnishing cars or motive power.—(Article XVII, section 7.)

No railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil issues.—(Article XVII, section 4.)

No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in



operates articles which it has directly or indirectly mined or manufactured for sale.

It shall engage only in the business of a common carrier, except that if it uses electricity as a motive power, it, may, when authorized by an agency created by law, furnish electricity to others for light, heat or power.

A mining or manufacturing corporation shall not be deemed a common carrier for the purposes of this section by reason of carrying its products on its railroad or canal not exceeding fifty miles in length.

#### Passes Prohibited.

Section 9. A corporation being a common carrier shall not grant free passes or reduced rates to any person except to its own officers or employees.

#### Water Rights.

Section 10. A right in waters shall not be granted by the state government or by a municipality for more than fifty years or without reasonable compensation.

At the expiration of the first or of any subsequent grant, the state government or the municipality shall make a new grant to the holder of the right, or pay, or

mining or manufacturing articles for transportation over its works; nor shall such company directly or indirectly engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.—(Article XVII, section 5.)

No railroad, railway or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employees of the company.—(Article XVII, section 8.)

New.

Proposed Constitution	Corresponding provisions in present Constitution
<p>cause to be paid, compensation for all property necessary to the exercise of the right and upon such payment title to said property shall vest in the state government or municipality or corporation making the payment.</p> <p>Enforcement of This Article.</p> <p>Section 11. Laws shall be enacted to enforce the provisions of this article.</p>	<p>The general assembly shall enforce by appropriate legislation the provisions of this article.—(Article XVII, section 12.)</p>
<p>ARTICLE XI. EDUCATION.</p>	
<p>Educational System of the Commonwealth.</p> <p>Section 1. Laws shall be enacted providing for the operation and maintenance of a public educational system for the commonwealth. This shall include public schools for the free elementary, secondary and vocational education of all children of the commonwealth, for the free mental and vocational education of persons under mental</p>	<p>The general assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.—(Article X, section 1.)</p>

or physical disability, for the free education in American citizenship for adults, and for the training of teachers, a system of public libraries, one or more public universities, and such other public educational institutions and agencies as may be wise and necessary for the improvement of the citizenship of the commonwealth.

#### State Council of Education.

Section 2. Laws shall be enacted providing for a state council of education appointed by the governor. The council shall have the powers and duties prescribed by law. Its chief executive officer shall be the commissioner of education.

New.

#### Support of Educational System.

Section 3. Laws shall be enacted making adequate provision by appropriation and through general or special forms of taxation for the effective and equitable support of the public educational system of the commonwealth.

New.

#### No Appropriations to Sectarian Institutions.

Section 4. Money raised for the support of the public educational system of the commonwealth shall not be appropriated to or used for the support of any sectarian school or institution.

No money raised for the support of the public schools of the commonwealth shall be appropriated to or used for the support of any sectarian schools.—(Article X, section 2.)

Art. XI, Secs. 5, 6; Art. XII, Secs. 1, 2, 3

Proposed Constitution	Corresponding provisions in present Constitution
<p style="text-align: center;"><b>State School Fund.</b></p> <p>Section 5. The net receipts from state forests, unclaimed funds derived by the commonwealth either by escheat or otherwise, and money or property designated for the purpose and derived from any source shall constitute the state school fund to be used only for the benefit of the public educational system of the commonwealth in such manner as may be prescribed by law.</p>	<p style="text-align: center;">New.</p>
<p style="text-align: center;"><b>Basic Instruction to be in English.</b></p> <p>Section 6. The basic instruction in public and private schools shall be given in the English language and from English texts.</p>	<p style="text-align: center;">New.</p>

## ARTICLE XII.

### SOCIAL WELFARE AND PUBLIC HEALTH.

<p style="text-align: center;">Charitable Institutions and Agencies.</p> <p>Section 1. Laws shall be enacted providing for the maintenance of an efficient system of institutions and</p>	<p style="text-align: center;">New.</p>
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agencies to care for residents of the commonwealth who cannot care for and support themselves on account of physical or mental infirmities or other misfortune and to prevent such infirmities and misfortunes so far as possible.

### Penal and Correctional Institutions.

Section 2. Laws shall be enacted providing for the maintenance of an efficient system of penal and correctional institutions and agencies.

New.

### Employment and Treatment of Prisoners.

Section 3. Humanity, sound public economy and just consideration for the innocent dependents of persons deprived of their liberty, by judgment, decree or sentence of any court, require that all such persons should, during their imprisonment, be afforded an opportunity for remunerative labor and the conditions of imprisonment shall always be such as to promote the physical, mental and moral welfare of the prisoners. Such laws shall accordingly be enacted as may be necessary to give effect to this provision.

New.

## Proposed Constitution

## Corresponding provisions in present Constitution

## Supervision of Charitable, Correctional and Penal Institutions and Agencies.

Section 4. Charitable, correctional and penal institutions and agencies and other institutions and agencies for the care, relief or treatment of persons having physical or mental infirmities, shall be subject to governmental inspection and supervisory control. The power to enforce the laws with respect to such institutions shall be vested in one or more departments of the state government or in such agencies as may be prescribed by law.

New.

## Health.

Section 5. The protection and promotion of the public health under modern social, economic and industrial conditions, is essential to the well-being of the commonwealth and is hereby declared to be a primary duty of government.

New.

# ARTICLE XIII. MUNICIPALITIES.

## Definition.

Section 1. Municipalities shall be counties, cities, boroughs, townships, school districts, poor districts and other divisions of the commonwealth for the purpose of local government.

New.

## Classification.

Section 2. Municipalities may be classified upon the basis of conditions requiring special regulation. The classification of municipalities according to population shall not divide cities, counties or school districts into more than seven classes or other municipalities into more than five classes. A class must contain more municipalities than one except where the basis of classification is population or the coincidence of the boundaries of two or more municipalities.

New.

A law otherwise general shall not be local because applicable only to municipalities adopting it.

## Proportional Representation.

Section 3. Proportional representation may be prescribed by law for the election of representative bodies

New.

Art. XIII, Secs. 4, 5, 6, 7, 8

Proposed Constitution	Corresponding provisions in present Constitution
<p>in municipalities in which that method of election shall be approved by a majority of the electors voting on the question.</p> <p style="text-align: center;"><b>New Counties.</b></p> <p>Section 4. A new county shall not be established if it would have less than three hundred square miles and fifty thousand inhabitants or if a line thereof would pass within ten miles of the boundary of the county seat of a county proposed to be divided or if its establishment would reduce another county below such area or population. A new county shall not be established without the consent of a majority of the electors resident within the proposed boundaries thereof voting on the question.</p> <p style="text-align: center;"><b>City Charters.</b></p> <p>Section 5. Laws may be enacted giving to cities or to cities of a particular class, authority to frame, adopt and amend charters for their organization and government.</p>	<p>No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.—(Article XIII, section 1.)</p> <p style="text-align: right;">New.</p>



## Creation and Change of Boundaries of Cities and Boundaries.

Section 6. A city or borough shall not be established or its boundaries changed except with the consent of a majority of the electors resident within the proposed boundaries voting on the question and of a majority of the electors in the proposed added or excluded area voting on the question.

## Appointive Municipal Officers.

Section 7. Appointive officers in counties, cities, boroughs and townships shall be appointed by an officer or agency of the municipality as prescribed by law, except as in this constitution otherwise provided.

## Accountability of Municipal Officers.

Section 8. Laws shall be enacted providing for the strict accountability of municipal officers, as well for the fees which may be collected by them as for all public or municipal moneys which may be paid to them.

Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same.—(Article XV, section 1.)

New.

The general assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.—(Article XIV, section 6.)

Proposed Constitution	Corresponding provisions in present Constitution
<p><b>County Officers.</b></p> <p>Section 9. The officers of a county shall be three commissioners, three auditors or a controller, a sheriff, a coroner, a prothonotary, a register of wills, a recorder of deeds, a treasurer, a surveyor, a clerk of the orphans' court, a clerk of the court of quarter sessions of the peace and of the court of oyer and terminer and general jail delivery, a district attorney, and other officers prescribed by law.</p> <p>In a county co-extensive with a city or included therein, any constitutional county office may be abolished by law and its duties and powers may be transferred to a city officer or officers.</p>	<p>County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors, or controllers, clerks of the courts, district attorneys, and such others as may from time to time be established by law * * *—(Article XIV, section 1.)</p>
<p><b>Election of Certain County Officers.</b></p> <p>Section 10. Except as in this constitution expressly provided, county officers shall be chosen by the electors of the county. Each shall hold office for four years from the first Monday of January succeeding his election or until his successor shall qualify. Vacancies shall be filled as prescribed by law. The sheriff and the treasurer shall not be eligible for the succeeding term.</p>	<p>County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law.—(Article XIV, section 2, Amendment of November 2, 1909.)</p>

\* \* \* no sheriff or treasurer shall be eligible for the term next succeeding the one for which he may be elected.—(Article XIV, section 1.)

### County Commissioners and County Auditors.

Section 11. Three county commissioners shall be elected in each county in the year 1923, one to serve for two years and two to serve for four years. Every four years thereafter, two commissioners shall be elected to serve for four years. In the year 1925 and every four years thereafter, one commissioner shall be elected to serve for four years. An elector shall vote for one candidate for commissioner except in the year 1923, when he shall vote for one candidate to serve for two years and for one candidate to serve for four years. A vacancy in the office of commissioner shall be filled by the governor by the appointment of an elector of the county who has voted for the commissioner whose place is to be filled. In a county having auditors, they shall be elected and vacancies in the office of auditor shall be filled as in the case of commissioners.

### Philadelphia Prothonotary.

Section 12. The prothonotary of the county of Philadelphia shall be appointed by the judges of the court of common pleas of the county. He shall hold office for three

Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.—(Article XIV, section 7, Amendment of November 2, 1909.)

For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years, sub-

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years but may be removed at the pleasure of the court. He shall appoint assistants only with the approval of the court. The salaries of the prothonotary and of his assistants shall be paid by the county.

Residence of County Officers.

Section 13. An appointive county officer shall have been a citizen and resident of the county for one year before his appointment, if the county has been so long established, but if it has not been so long established, then within the limits of the county or counties out of which it has been taken.

Certain County Officers to Keep Offices in County Seat.

Section 14. The prothonotary, the clerk of the orphan's court, the clerk of the court of quarter sessions of

Corresponding provisions in present Constitution

ject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket, which shall contain the judgments and liens of all the said courts, as is or may be directed by law.—(Article V, section 7.)

No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.—(Article XIV, section 3.)

Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep

their offices in the county town of the county in which they respectively shall be officers.—(Article XIV, section 4.)

The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or state, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.—(Article XIV, section 5.)

New.

the peace and of the court of oyer and terminer and general jail delivery, the recorder of deeds, the register of wills, the surveyor, and the sheriff shall keep their offices in the county seat.

### Compensation of County Officers.

Section 15. County officers shall be paid only by salary for services performed for the state government or for the county or for any other official service. Except as otherwise provided in this constitution, such salaries shall be prescribed by law. Fees received by county officers shall be paid into the treasury of the county or into the state treasury as prescribed by law.

### Salaries and Expenses of County Officers in a County Co-Extensive With a City.

Section 16. In a county co-extensive with a city or included therein, the county treasury and the city treasury shall be united in a single city treasury. The funds and obligations of the county shall be those of the city. The officers of the state government or of the county whose salaries or the expenses of whose offices or courts shall be paid in whole or in part by the city, shall at such

## Proposed Constitution

## Corresponding provisions in present Constitution

times as may be required in the case of city offices submit to the chief executive of the city estimates of their needs. The city shall control the amount to be expended for such salaries and expenses except salaries prescribed by law and expenses of the courts of common pleas and of the orphans courts.

## Municipal Borrowing Capacity.

Section 17. A municipality may incur debt by borrowing money as prescribed by law if its aggregate debt for borrowed money would not then exceed the sum of:

(a) Ten per centum of the assessed value of the property therein taxable by or for the benefit of the municipality.

(b) An amount equal to that capital sum which, at the legal rate of interest and at such amortization charges as shall be prescribed by law would yield an amount equal to the net revenue derived by the municipality during the last preceding fiscal year from its public improvements.

(c) The amount of debt secured by liens on public improvements and imposing no obligation on the municipi-

The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, but the debt of the city of Philadelphia may be increased in such amount that the total city debt of said city shall not exceed ten (10) per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property, without the consent of the electors thereof at a public election in such manner as shall be provided by law. In ascertaining the bor-

pality, if the net revenue derived from such improvements has not been taken into account under paragraph (b).

(d) So much of any debt incurred within five years to acquire public improvements as shall be likely to be allowable under paragraph (b) within six years thereafter, if the net revenue derived from such improvements has not been taken into account under paragraph (b), and if such debt has not been taken into account under paragraph (c).

(e) The par value of the evidences of debt of the municipality owned by it and pledged toward the payment of the principal of its debt.

(f) The amount of cash and the market value of investments owned by the municipality and the amount of the collectible debts due or to fall due owned by the municipality, in so far as such assets are pledged toward the payment of the principal of its debt.

(g) Eighty per centum of the amount which it is estimated as prescribed by law that the municipality will receive within five years from assessments against property benefited by public improvements, if such amount is pledged toward the payment of the principal of its debt and if it has not been taken into account under paragraph (f).

An indebtedness incurred by a municipality in excess of three per centum of the assessed value of the taxable

rowing capacity of the said city of Philadelphia, at any time, there shall be excluded from the calculation and deducted from such debt so much of the debt of said city as shall have been incurred, and the proceeds thereof invested, in any public improvements of any character which shall be yielding to the said city an annual current net revenue. The amount of such deduction shall be ascertained by capitalizing the annual net revenue from such improvement during the year immediately preceding the time of such ascertainment; and such capitalization shall be estimated by ascertaining the principal amount which would yield such annual, current net revenue, at the average rate of interest, and sinking fund charges payable upon the indebtedness incurred by said city for such purposes, up to the time of such ascertainment. The method of determining such amount, so to be deducted, may be prescribed by the general assembly. \* \* \* (Article IX, section 8, amendment of November 4, 1918.)

No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of water-works, subways, underground railways or street railways, or the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition

## Proposed Constitution

property therein shall be approved by a majority of the electors thereof at a public election held as prescribed by law.

The term "incur debt," as used in this section, shall include an incurrence of new indebtedness, an extension of the maturity of a debt, a deferment of the payment of a debt, a change in the form of a debt, and an assumption of a debt.

A debt shall be deemed to be incurred at the time the obligation to pay is entered into or the contract to extend, defer, change or assume an existing debt is made.

## Duration and Payment of Debts.

Section 18. A municipality shall not incur a debt maturing more than fifty years thereafter. The aggregate amount of principal and interest payable in respect of a debt in any year shall not be less than the amount payable in any later year unless the sinking fund method of amortization is authorized by law. Such sink-

## Corresponding provisions in present Constitution

thereof, or where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. \* \* \* Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law.—(Article IX, section 15, amendment of November 4, 1913.)

Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.—(Article IX, section 10.)

Every city shall create a sinking fund, which shall be in-



violably pledged for the payment of its funded debt.—(Article XV, section 3.)

\* \* \* In incurring indebtedness for any purpose, the city of Philadelphia may issue its obligations maturing not later than fifty years from the date thereof, with provision for a sinking fund sufficient to retire said obligations at maturity, the payment to such sinking fund to be in equal or graded annual or other periodical installments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten, article nine, of the constitution of Pennsylvania, until the expiration of said period of one year after the completion of said work.—(Article IX, section 8, amendment of November 5, 1918.)

ing fund shall be sufficient to pay the accruing interest on such debt and annually to reduce the principal by a sum not less than three per centum of such principal. The money in such sinking fund shall be invested in the bonds of the United States, of the state government or of a municipality thereof.

On or before incurring a debt by borrowing money, the municipality shall provide for the collection of an annual tax sufficient to pay the principal and interest as they fall due.

## Proposed Constitution.

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\* \* \* Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided (i. e., water-works, subways, underground railways or street railways or appurtenances thereto), said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year.—(Article IX, section 15, amendment of November 4, 1913.)

## Debts Other Than for Money Borrowed.

Section 19. A municipality shall not incur a debt otherwise than by the borrowing of money unless there has been an appropriation to pay the debt.

No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government.—(Article XV, section 2.)

### Municipalities Not to Pledge Credit.

Section 20. A municipality shall not pledge or lend its credit to a corporation, association or individual and shall not be a stockholder or owner in a corporation or association. Except to discharge municipal liabilities, it shall not appropriate money to assist a private business enterprise.

The provisions of this section shall not be construed to apply to the lease by a municipality to a corporation of a public service facility for a rental dependent on the earnings of the lessee if the corporation covenants to operate the facility and an agency created by law to regulate public utilities approves the lease.

### Special Commissions Prohibited.

Section 21. No law shall delegate to a special commission, corporation or association power to perform a municipal function or to make, supervise or interfere with a municipal improvement, or with municipal property or money, whether held in trust or otherwise.

The general assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.—(Article IX, section 7.)

The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.—(Article III, section 20.)

Proposed Constitution	Corresponding provisions in present Constitution
<p><b>Assessments of Benefits for Public Improvements.</b></p> <p>Section 22. Laws may be enacted authorizing assessments against properties which are specially and particularly benefited by public improvements made by the state government or by a municipality, whether or not such properties abut upon such public improvements.</p> <p>Extent of Land Permitted to be Taken for Public Improvements.</p> <p>Section 23. When the public purpose for which land is taken can best be attained by acquiring more land than the state government or the municipality proposes to retain, the state government or the municipality, subject to regulations prescribed by law, may take all the land which in its judgment is needed for the attainment of such purpose and may dispose of portions thereof, subject to restrictions protective of the public purpose.</p> <p><b>Zoning of Municipalities.</b></p> <p>Section 24. Municipalities may be authorized by law to promote the general welfare by regulating the loca-</p>	<p>New.</p> <p>New.</p> <p>New.</p>

tion, size and use of buildings. For the purpose of such regulations, a municipality may divide its territory into districts, to each of which special regulations may be applied.

#### Contracts between Municipalities.

Section 25. A municipality may, as prescribed by law, contract with one or more municipalities for the joint acquisition, construction, maintenance, supervision or operation of public property, for the creation of agencies to effect any of such purposes, and for the creation of such agencies as may be mutually agreed upon for the good government of the municipalities. Such agencies shall not levy taxes or borrow money. Every such contract shall name arbitrators.

New.

#### Street Passenger Railways in Cities, Boroughs or Townships.

Section 26. A street passenger railway shall not be constructed in a city, borough or township except with the consent of the municipality.

The provisions of this section shall not be construed to permit a restriction on the power of the state government to regulate the operation of such a railway.

No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.—(Article XVIII, section 9.)

Art. XIII, Sec. 27; Art. XIV, Secs. 1, 2	Proposed Constitution	Corresponding provisions in present Constitution
One Place of Paying Taxes in Cities and Boroughs.		
Section 27. Laws shall be enacted to enable a taxpayer in each city and borough to pay all municipal taxes at one office.		New.

## ARTICLE XIV.

### AMENDMENT AND REVISION.

#### Constitutional Conventions.

Section 1. An amendment to this constitution may be proposed in the general assembly. If agreed to by a majority of the members elected to each house, it shall be entered on the journals with the names of the members voting for and of those voting against, and the secretary of the commonwealth shall cause it to be published once a week for four weeks immediately preceding the next general election in at least two newspapers in every county in which newspapers shall be published. If it shall be likewise agreed to by the next general assembly, the sec-

Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and, if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the general assembly next afterwards chosen, such proposed

amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in the manner aforesaid, and such proposed amendment or amendments shall be submitted to the qualified electors of the state in such manner, and at such time at least three months after being so agreed to by the two houses, as the general assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.—(Article XVIII, section 1.)

#### New.

retary of the commonwealth shall cause it to be published in the manner aforesaid for four weeks immediately preceding the first general or municipal election which shall first occur not less than three months after such agreement, and it shall be submitted at such election to the electors of the commonwealth in such manner as the general assembly shall prescribe. If it shall be approved by a majority of the electors voting thereon, it shall become a part of the constitution. When two or more amendments are submitted to the electors at the same time, they shall be voted upon separately.

#### Amendments.

Section 2. The general assembly may recommend to the electors of the commonwealth to vote for or against a convention for the framing of a new constitution or of amendments to this constitution or of a revision thereof. Such convention shall be held only with the approval of a majority of the electors voting on the question. It shall be composed of delegates chosen by the electors of the commonwealth. The new constitution, the amendments or the revised constitution proposed by the conven-

Concl. Sec.	Proposed Constitution	Corresponding provisions in present Constitution
	<p>tion shall become effective only when ratified by a majority of the electors of the commonwealth voting thereon. The times and methods of such voting and election and the composition of the convention shall be determined by the general assembly with the consent of a majority of the members elected to each house.</p>	

### CONCLUDING SECTION.

Wherever a term in the masculine form is used in this constitution, it refers to men and women alike.

New.



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## EXHIBIT C.

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### THE PROPOSED CONSTITUTION.

with a note to each section giving the text of the corresponding provisions of the present constitution and an explanation of any changes of substance and clarifying changes.

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EXHIBIT C.

THE PROPOSED CONSTITUTION

with a note to each section giving the text of the corresponding provisions of the present constitution and an explanation of any changes of substance and clarifying changes.

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ARTICLE I.

DECLARATION OF RIGHTS.

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Note.

The Commission recommend that the Declaration of Rights be adopted without change. The text will be found in Part II of the Report of the Commission.

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ARTICLE II.

THE GENERAL ASSEMBLY.

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Preliminary Note.

Source: Article II.

Arrangement: The order of subjects is as follows:

- Vesting of legislative power—section 1.
- Senatorial and legislative districts—sections 2, 3, 4.
- Qualifications, election and term of members—sections 5, 6.
- Compensation and privileges of members—sections 7, 8.
- Dates of sessions—section 9.
- Quorum and powers of each house—sections 10, 11.
- Choice and compensation of officers—sections 12, 13.
- Keeping of journals—section 14.
- Open sessions—section 15.
- Adjournment—section 16.

Art. II, Secs. 1, 2, 3

### Legislative Power.

1 Section 1. The legislative power of the commonwealth shall  
2 be vested in a general assembly which shall consist of a senate  
3 and a house of representatives.

#### Note.

Source: Article II, section 1:

“The legislative power of this commonwealth shall be vested in a general assembly which shall consist of a senate and a house of representatives.”

Changes in Substance: None.

Changes in Style: “This” has been changed to “the” because throughout the constitution as proposed the expression “the commonwealth” is employed.

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### Legislative Apportionment.

1 Section 2. At the first session of the general assembly after  
2 this constitution becomes effective and at the first session of  
3 general assembly after each United States decennial census,  
4 the state shall be divided by law into senatorial and representa-  
5 tive districts.

#### Note.

Source: Article II, section 18:

“The general assembly at its first session after the adoption of this constitution, and immediately after each United States decennial census, shall apportion the state into senatorial and representative districts agreeably to the provisions of the two next preceding sections.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Senatorial Districts.

1 Section 3. The state shall be divided into fifty senatorial  
2 districts of compact and contiguous territory as nearly equal in  
3 population as may be, and each district shall be entitled to elect  
4 one senator. The senatorial ratio shall be obtained by dividing  
5 the whole population of the state, as ascertained by the most  
6 recent United States decennial census, by the number fifty. A  
7 county containing one or more ratios of population shall be en-  
8 titled to one senator for each ratio, and to an additional senator

## Art. II, Sec. 4

9 for an excess of population exceeding three-fifths of a ratio. No  
10 county shall form a separate district unless it shall contain four-  
11 fifths of a ratio, except where the adjoining counties are each  
12 entitled to one or more senators, when such county may be as-  
13 signed a senator on less than four-fifths and exceeding one-half  
14 of a ratio. No county shall be divided unless entitled to two or  
15 more senators. No city or county shall be entitled to separate  
16 representation exceeding one-sixth of the whole number of sen-  
17 ators. No ward, borough or township shall be divided in the  
18 formation of a district.

## Note.

Source: Article II, section 16:

“The state shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one senator. Each county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators, when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough or township shall be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the state by the number fifty.”

Changes in Substance: None.

Clarifying Changes: The words “as ascertained by the most recent United States decennial census” have been added to avoid any possibility of dispute in regard to the number of persons in the state, and also to make the provision in regard to senatorial districts correspond to the provisions of section 4 of this article, relating to the division of the state into representative districts.

Changes in Style: The Commission’s rules of style have been followed.

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Representative Districts.

1 Section 4. The members of the house of representatives shall  
2 be apportioned among the several counties, on a ratio obtained  
3 by dividing the population of the state as ascertained by the most  
4 recent United States decennial census by the number two hun-

## Art. II, Sec. 5

5 dred. A county containing less than five ratios shall have one  
6 representative for each full ratio, and an additional representa-  
7 tive when the excess exceeds half a ratio; but each county shall  
8 have at least one representative. A county containing five ratios  
9 or more shall have one representative for each full ratio. A  
10 city containing a population equal to a ratio shall elect sep-  
11 arately its proportion of the representatives allotted to the  
12 county in which it is located. A city entitled to more than four  
13 representatives and a county having over one hundred thousand  
14 inhabitants shall be divided into districts of compact and con-  
15 tiguous territory. A district shall elect its proportion of repre-  
16 sentatives according to its population, but no district shall elect  
17 more than four representatives.

## Note.

Source: Article II, section 17:

“The members of the house of representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the state as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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Qualifications of Members.

1 Section 5. A senator shall be at least twenty-five years of  
2 age and a representative shall be at least twenty-one years of  
3 age. Each shall have been a citizen of the commonwealth and  
4 a resident of the state for four years and a resident of his dis-  
5 trict for one year next before his election, unless absent on the  
6 public business of the United States, of the state government or  
7 of a municipality of the commonwealth. He shall reside in his  
8 district during his term of service.

## Art. II, Sec. 6

## Note.

Source: Article II, section 5:

"Senators shall be at least twenty-five years of age and representatives twenty-one years of age. They shall have been citizens and inhabitants of the state four years, and inhabitants of their respective districts one year next before their election (unless absent on the public business of the United States or of this state), and shall reside in their respective districts during their term of service."

Changes in Substance: None.

Clarifying Change: Under the present constitution it is not clear whether the absence on public business referred to in section 5 includes not only public business of the state government, but also public business of a municipality. For instance, if a man had been for some years in Europe investigating highway conditions for the city of Pittsburgh, would he be eligible to the general assembly? The proposed form answers this question in the affirmative.

Changes in Style: The Commission's rules of style have been followed.

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### Election and Terms of Members.

- 1 Section 6. Members of the general assembly shall be chosen
- 2 at the general election. Their terms of service shall begin on
- 3 the first day of December after their election. Senators shall
- 4 serve for four years and representatives for two years. When a
- 5 vacancy shall occur in either house, the presiding officer thereof
- 6 shall issue a writ of election to fill such vacancy for the re-
- 7 mainder of the term.

## Note.

Source: (1) Article II, section 2:

"Members of the general assembly shall be chosen at the general election every second year. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either house, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term."

(2) Article II, section 3:

"Senators shall be elected for the term of four years and representatives for the term of two years."

Changes in Substance: None.

Changes in Style: The provisions of Article II, section 3 of the present constitution in regard to length of service have been incorporated in this section, so that all matters pertaining to terms shall be treated in one section.

Art. II, Secs. 7, 8

### Compensation of Members.

1 Section 7. The members of the general assembly shall receive  
2 salary and mileage for regular and special sessions as prescribed  
3 by law and no other compensation, whether for services upon  
4 committee or otherwise. No member of the general assembly  
5 shall, during the term for which he has been elected, receive an  
6 increase of salary or mileage allowance under a law enacted dur-  
7 ing such term.

#### Note.

Source: Article II, section 8:

"The members of the general assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for services upon committee or otherwise. No member of either house shall during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Privileges of Members.

1 Section 8. A member of the general assembly shall be privi-  
2 leged from arrest during attendance at the sessions thereof and  
3 in going to and returning from the same, except in cases of  
4 treason, felony, violation of his oath of office and breach or  
5 surety of the peace. For a speech or debate in the general as-  
6 sembly he shall not be questioned in any other place.

#### Note.

Source: Article II, section 15:

"The members of the general assembly shall in all cases, except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.



## Art. II, Secs. 9, 10

## Times of Sessions.

1 Section 9. The general assembly shall meet at twelve o'clock  
2 noon, on the first Tuesday of January in each odd-numbered year  
3 and at other times when convened by the governor. It shall hold  
4 no adjourned annual session.

Source: Article II, section 4:

## Note.

"The general assembly shall meet at twelve o'clock, noon, on the first Tuesday of January every second year, and at other times when convened by the governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States senator from this commonwealth, in a recess between sessions, the governor shall convene the two houses, by proclamation on notice not exceeding sixty days, to fill the same."

Changes in Substance: The provisions of the 17th amendment of the constitution of the United States, providing for the election of United States senators by the people have rendered obsolete the provisions in Article II, section 4, of the present constitution relating to convening the general assembly for the purpose of electing a United States senator and, therefore, they have been omitted.

Changes in Style: "Every second year" has been changed to "in each odd-numbered year" for the sake of exactness.

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Quorums.

1 Section 10. In each house a majority of the members shall  
2 constitute a quorum. A smaller number may adjourn from day  
3 to day and compel the attendance of absent members.

## Note.

Source: Article II, section 10.

"A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

## Art. II, Secs. 11, 12

## Powers of Each House.

1 Section 11. Each house shall have power to make its rules  
 2 of procedure, to judge of the election and qualifications of its  
 3 members, to punish for contempt or disorderly behavior in its  
 4 presence, to enforce obedience to its processes, to protect its  
 5 members against violence, offers of bribes or private solicitation,  
 6 and by a vote of two-thirds of the members, to expel a member,  
 7 but not a second time for the same cause, and shall have all  
 8 other powers necessary for the legislature of a free common-  
 9 wealth. A member expelled for corruption shall not thereafter  
 10 be eligible to either house. Punishment for contempt or dis-  
 11 orderly behavior shall not bar an indictment for the same offense.

## Note.

Source: (1) Article II, section 11:

“Each house shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free state. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.”

(2) Part of Article II, section 9:

“\* \* \* Each house shall \* \* \* judge of the election and qualifications of its members.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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Choice of Officers.

1 Section 12. The senate shall, at the beginning and at the close  
 2 of each regular session and at other necessary times, elect one of  
 3 its members as president pro tempore. The house of representa-  
 4 tives shall elect one of its members as speaker. Each house shall  
 5 choose its other officers.

## Note.

Source: Part of Article II, section 9:

“The senate shall, at the beginning and close of each regular session and at such other times as may be necessary, elect one of its members president pro tempore, \* \* \*.”

Art. II, Secs. 13, 14

The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers,  
\* \* \*.”

Changes in Substance: None.

Changes in Style: The reference to the duties of the president pro tempore of the senate has been omitted because covered by Article IV, section 15 of this article.

(2) The provisions of the final clause have been transferred to section 11 of this article.

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Officers and Employes.

1 Section 13. The officers and employes of each house shall  
2 have active duties and shall be selected and compensated in  
3 pursuance of laws prescribing their number, duties and com-  
4 pensation.

Note.

Source: Article III, section 10:

“The general assembly shall prescribe by law the number, duties and compensation of the officers and employes of each house, and no payment shall be made from the state treasury, or be in any way authorized, to any person, except to an acting officer or employe elected or appointed in pursuance of law.”

Changes in Substance: None.

Clarifying Changes: The language of the present constitution is ambiguous. Strictly interpreted, it would prevent paying money out of the state treasury to anyone except to officers and employes of the two houses of the general assembly. The Commission have re-worded the section on the assumption that it is intended to prevent two things: (a) the appointment of a particular person by special law to a position in either house; (b) the appointment of and payment of salaries to inactive officers or employes of either house.

Changes in Style: The Commission's rules of style have been followed.

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Journals.

1 Section 14. Each house shall keep a journal of its proceed-  
2 ings, and shall publish so much thereof as shall not require  
3 secrecy. At the request of two members, the yeas and nays on  
4 a question shall be entered on the journal.

## Art. II, Secs. 15, 16

## Note.

Source: Article II, section 12:

“Each house shall keep a journal of its proceedings and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Sessions to be Open.

- 1 Section 15. The sessions of each house and of committees
- 2 of the whole shall be open unless the business ought to be kept
- 3 secret.

## Note.

Source: Article II, section 13:

“The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Adjournments.

- 1 Section 16. Neither house shall, without the consent of the
- 2 other, adjourn for more than three days, or to a place other
- 3 than that in which the two houses shall be sitting.

## Note.

Source: Article II, section 14:

“Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

Art. III, Sec. 1

## ARTICLE III.

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### LEGISLATION.

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#### Preliminary Note.

Source: Article III.

Arrangement: The order of subjects is as follows:

Bills—sections 1, 2, 3, 4, 5, 6, 7.

Form of laws—sections 8, 9, 10, 11.

Budget and appropriations—sections 12, 13, 14, 15, 16.

Governor's approval and veto of bills—sections 17, 18.

Time when laws shall take effect—section 19.

Laws prohibited—section 20.

Laws permitted—sections 21, 22.

Laws directed to be enacted—sections 23, 24.

Laws permitted at special sessions—section 25.

Referendum on law changing capital—section 26.

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#### Method of Enacting Laws.

1 Section 1. Laws shall be enacted by bill only.

#### Note.

Source: Part of Article III, section 1:

“No law shall be passed except by bill, \* \* \*.”

Changes in Substance: None.

Changes in Style: The last part of Article III, section 1, of the present constitution, referring to alteration and amendment of bills, has been transferred to section 5 of this article.

The expression “laws shall be enacted” is employed throughout the constitution as proposed because it more accurately expresses the intended meaning. The general assembly passes a bill embodying a proposed law but the constitutional provisions in respect to the action of the governor on bills have to be fulfilled before a law is enacted.

## Art. III, Secs. 2, 3, 4

## Bills for Raising Revenue.

- 1 Section 2. Bills for raising revenue shall originate in the  
2 house of representatives. The senate may propose amendments.

## Note.

Source: Article III, section 14:

“All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Printing and Reference of Bills.

- 1 Section 3. Before consideration, a bill shall be referred to a  
2 committee, returned therefrom, and printed for the use of the  
3 members.

## Note.

Source: Article III, section 2:

“No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Member Interested in Bill Not to Vote.

- 1 Section 4. A member of the general assembly who has a  
2 private interest in a measure or bill shall disclose the fact to  
3 the house of which he is a member, and shall not vote thereon.

## Note.

Source: Article III, section 33:

“A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.”

Changes in Substance: None.

## Art. III, Sec. 5

Clarifying Change: The words "personal or" have been omitted because they do not help to express the plain meaning of the section. The distinction sought to be made is between public and private interests. A personal interest, as, for instance, a personal interest in a particular hospital seeking an appropriation, is not objectionable, and it was not the intent of the section that a member should expose such a personal interest to the house of which he is a member.

Changes in Style: The Commission's rules of style have been followed.

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### Amendments and Conference Committee.

1 Section 5. An amendment to a bill shall be printed for the  
 2 use of the members before the final vote is taken on the bill.  
 3 An amendment by one house shall be concurred in by the other  
 4 and a report of a committee of conference shall be adopted by  
 5 either house only by the vote of a majority of the members taken  
 6 by yeas and nays. The names of the members voting for and of  
 7 those voting against such amendment or report shall be entered  
 8 on the journal. A bill shall not be so altered or amended on its  
 9 passage through either house as to change its original purpose.

#### Note.

Source: (1) Part of Article III, section 4:

"\* \* \* all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill."

(2) Article III, section 5:

"No amendment to bills by one house shall be concurred in by the other, except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals."

(3) Part of Article III, section 1:

"\* \* \* no bill shall be so altered or amended, on its passage through either house, as to change its original purpose."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

## Art. III, Secs. 6, 7

## Notice of Local or Special Bills.

1 Section 6. At least thirty days before the introduction of a  
 2 local or special bill, notice of the intention to introduce the  
 3 same shall be published in the locality where the matter or thing  
 4 to be affected shall be situated. No such bill shall be finally  
 5 acted on by either house until the evidence of such notice having  
 6 been published has been exhibited therein. Notice shall not be  
 7 required of the intention to introduce a general bill for the re-  
 8 peal of a local or special law.

## Note.

Source: Article III, section 8:

“No local or special bill shall be passed unless notice of the intention to apply therefore shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published shall be exhibited in the general assembly before such act shall be passed.”

Changes in Substance: The provision that “Notice shall not be required of the intention to introduce a general bill for the repeal of a local or special law” is new. The Commission regard the requirement in the present constitution, that notice of the intention to introduce a bill for the repeal of a local or special law shall be published in the locality affected, as unnecessary, and as most burdensome when the general assembly is asked to adopt a general revision or compilation of the laws on a particular subject including the repeal of all prior enactments, whether local or general, relating to the subject.

Changes in Style: The section has been re-written so that the acts mentioned are stated in the order in which they are required to be done.

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Final Passage of Bills.

1 Section 7. Before a bill shall be passed, it shall be read at  
 2 length on three different days in each house; on its final passage  
 3 the vote shall be taken by yeas and nays, the names of the mem-  
 4 bers voting for and of those voting against shall be entered on  
 5 the journals, and a majority of the members elected to each  
 6 house shall be recorded thereon as voting in its favor.

## Note.

Source: Part of Article III, section 4:

“Every bill shall be read at length on three different days in each house; \* \* \* and no bill shall become a law,



## Art. III, Secs. 8, 9

unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor."

Changes in Substance: None.

Clarifying Change: The statement in the present constitution that "every bill shall be read at length on three different days" means that it must be so read before it can be passed. This is made clear in the proposed section.

Changes in Style: The Commission's rules of style have been followed.

## Signing of Bills by Presiding Officers.

1 Section 8. The presiding officer of each house shall, in the  
2 presence of the house over which he presides, sign bills and joint  
3 resolutions passed by the general assembly, after their titles have  
4 been publicly read immediately before signing. The fact of sign-  
5 ing shall be entered on the journal.

## Note.

Source: Article III, section 9:

"The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

## One Subject in Each Law.

1 Section 9. A law shall contain only one subject. A general  
2 appropriation law, a codification, and a compilation or general  
3 revision of statutory law shall be deemed to contain only one  
4 subject.

## Note.

Source: Part of Article III, section 3:

"No bill, except general appropriation bills, shall be passed containing more than one subject \* \* \*."

Changes in Substance: None.

## Art. III, Sec. 10

Clarifying Change: The provision that a codification, compilation or general revision shall be deemed to contain only one subject is inserted so as to clear the present uncertainty as to whether or not such laws contain more than one subject.

Changes in Style: The Commission's rules of style have been followed.

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Titles of Laws.

1 Section 10. The subject of a law shall be clearly expressed in  
2 its title. A law may in the body thereof set forth a short title  
3 by which it may be cited. A law amending, reviving or extending  
4 a law shall set forth in its title the title or the short title of the  
5 law affected.

Note.

Source: Part of Article III, section 3:

"No bill \* \* \* shall be passed containing more than one subject, which shall be clearly expressed in its title."

Changes in Substance: (1) The second sentence is inserted so as to give constitutional sanction to a common and convenient practice.

(2) The purpose of the provisions of the final sentence is to give notice to persons interested of the effect of law upon existing laws specially affected.

There is a distinction between an amendment and an extension of an act. The former merges into the act to which it is an amendment, while an extending statute does not merge, but is a separate and independent enactment. Judge Endlich, in his "Interpretation of Statutes," paragraph 196, lays down the rule that an amendment is so much an integral part of the original act and so complete is the merger that the repeal of the amendment does not revive, but carries down the portion of the original act amended, and vice versa, a repeal of such portion of the original act also repeals the amendment thereto. On the other hand, the Supreme Court in *Wetling v. Kelley*, 201 Pa. 12, decided that an amending act has no effect whatever on a prior act *extending* the provisions of the original act, nor has the repeal of such amending act any effect upon the extending statute.

Changes in Style: The section is practically new and has been written in accordance with the Commission's rule of style.

## Art. III, Secs. 11, 12

## Form of Amending, Reviving or Extending Laws.

1 Section 11. A law amending, reviving or extending a law or  
 2 conferring the provisions thereof shall set forth in full the part  
 3 of the law affected, and an amending law shall also set forth in  
 4 full the part of the law affected as amended.

## Note.

Source: Article III, section 6:

"No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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 Budget and Appropriation Bills.

1 Section 12. The governor shall submit to the general assembly  
 2 a budget on or before March 1 of each year in which it shall  
 3 be in regular session. The budget shall contain a complete plan  
 4 of proposed appropriations and complete estimates of the revenues and funds available for appropriation for the two ensuing  
 5 fiscal years, including appropriations for charitable, educational  
 6 and benevolent purposes. In submitting proposals for appropriations to charitable, educational or benevolent institutions  
 7 not under the absolute control of the state government, the governor shall at the same time submit a plan of distribution among  
 8 the classes of institutions to be benefited.

9 When the governor presents the budget to the house of representatives, he shall submit a general appropriation bill containing the proposed appropriations for the fiscal years covered by  
 10 the budget and may also submit any bill embodying recommendations as to sources of revenue.

11 The presiding officer of the house of representatives shall immediately cause such bills to be introduced.

12 The general assembly may increase, decrease, strike out or otherwise alter any item in the general appropriation bill, or  
 13 may add new items thereto.

14 Until the general appropriation law has been enacted neither  
 15 house shall consider an appropriation bill other than the general appropriation bill unless the appropriation shall be solely for the immediate needs of the general assembly or unless the governor shall request the general assembly to act upon the bill in  
 16 advance of the general appropriation bill.

17 After the general appropriation law has been enacted, no appropriation shall be made for any purpose, object or item in-

## Art. III, Sec. 12

30 included therein or in the general appropriation bill as submitted  
31 by the governor, unless the governor shall request the general  
32 assembly to pass a bill making such appropriation.

33 The general assembly shall not finally adjourn for ten days  
34 after the general appropriation bill has been presented to the  
35 governor.

## Note.

Source: This is entirely new matter and takes the place of the provisions of Article III, section 15 in the present constitution:

"The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject."

The Commonwealth of Pennsylvania has no budget system. At least forty-four of the states have such a system, either by statute or by constitutional requirement.

The Commission have embodied in the proposed section the following fundamental principles of a practical budget system:

(1) The governor is required to submit to the general assembly at each regular session a plan of proposed appropriations and an estimate of revenues.

(2) The governor is required at the same time to submit a general appropriation bill covering all proposed appropriations and not simply those for the ordinary expenses of government as provided by Article III, section 15, of the present constitution.

(3) The general assembly is required to consider this bill immediately and may alter it in any or every particular. Until a general appropriation law has been enacted, the general assembly cannot consider any appropriation bill other than the general appropriation bill unless for the needs of the general assembly or at the special request of the governor.

(4) After the general appropriation law has been enacted, the matter covered by it cannot again be considered except at the special request of the governor.

(5) The general assembly cannot adjourn for ten days after the general appropriation bill has been presented to the governor. This makes it impossible for the general assembly to lose its opportunity to pass the bill over the governor's veto. In other words, it provides that both the general assembly and the governor must take a full share of the responsibility for the appropriation laws.

## Art. III, Sec. 13

## Appropriations to Charitable and Educational Institutions.

Section 13. An appropriation for charitable, educational or benevolent purposes may be made to a class of corporations, associations or institutions not under the absolute control of the state government, engaged in work or service for the public good, as such classes may be defined by law. Such work or service shall conform to standards of excellence prescribed by law or by an agency created by law.

An appropriation to such a class shall be divided among its members in accordance with a plan uniform in its application to them, as prescribed by law. No law shall designate such a corporation, association or institution as the beneficiary of an appropriation.

Each item containing such an appropriation shall be voted on separately in each house before final action is taken upon the bill unless it shall receive the support of two-thirds of the members elected. The votes of each house shall be taken by yeas and nays and the names of the members voting for and of those voting against the item shall be entered on the journal.

Corporations, associations and institutions receiving such appropriations shall account therefor to the general assembly or to an agency prescribed by law and shall be subject to inspection by the state government.

After the establishment of one or more state universities, no appropriation for an educational purpose shall be made by the state government to a corporation, association or institution, or to a class of corporations, associations or institutions, not under the absolute control of the state government or of a municipality.

## Note.

Source: Article III, section 17:

"No appropriation shall be made to any charitable or educational institution not under the absolute control of the commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the state, except by a vote of two-thirds of all the members elected to each house."

Changes in Substance: This is practically a new section.

Upon the question whether private charity should receive state aid at all, the Commission is divided, but a majority favor giving such aid.

The Commission is unanimously of the opinion that if such aid is to be given, it should be given in accordance with the system set forth in the proposed section. A survey of the commonwealth's charitable institutions and an impartial determination of their actual needs will place the whole matter of charitable appropriations upon a sounder basis than at present.

## Art. III, Secs. 14, 15

Under Article III, section 15, of the present constitution, charitable appropriations are required to be by separate bills. The Commission are unanimously of the opinion that this system is inefficient and therefore undesirable.

The special reference to normal schools in Article III, section 17, of the present constitution, has been omitted because all normal schools are now under the absolute control of the commonwealth.

Changes in Style: The Commission's rules of style have been followed.

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### Appropriations to Denominational Institutions.

- 1 Section 14. No appropriations shall be made for charitable,  
2 educational or benevolent purposes to any denominational or  
3 sectarian institution, corporation or association.

#### Note.

Source: Part of Article III, section 18:

"No appropriations, \* \* \* shall be made for charitable, educational or benevolent purposes \* \* \* to any denominational or sectarian institution, corporation or association."

Changes in Substance: None.

Changes in Style: The substance of the clauses in section 18 of the present constitution which refer to appropriations to persons or communities has been transferred to sections 15 and 16 of this article. The provisions in this section relating to appropriations to denominational and sectarian institutions are taken verbatim from the present constitution.

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### Certain Appropriations Permitted.

- 1 Section 15. Appropriations may be made for the payment of  
2 pensions and gratuities for military services; for the payment  
3 of pensions for the retirement of classes of officers and employes  
4 of the state government and school districts; for the relief of  
5 persons or municipalities injured or damaged by surface subsidence  
6 resulting from past or future mining of anthracite coal;  
7 for relief consequent upon grave public disasters or calamities;  
8 for the payment to funds under public control for the benefit of  
9 classes of persons who are to be the recipients of public assistance;  
10 and for the payment of the debts of municipalities contracted  
11 to enable the commonwealth to repel invasion, suppress  
12 domestic insurrection or defend itself in time of war.

## Art. III, Sec. 16

## Note.

Source: Part of Article III, section 18:

"No appropriations except for pensions for gratuities for military services shall be made for charitable, educational or benevolent purposes to any person or community \* \* \*"

Changes in Substance: (1) Provision validating payment of pensions for the retirement of officers and employes of the state government and school districts. Article III, section 20, clause (o), would prevent an act giving a pension to a designated judge or other officer.

(2) Provision validating appropriations for the relief of persons or municipalities hereafter injured or damaged by the surface subsidence resulting from the past or future mining of anthracite coal.

Clarifying Changes: This section covers appropriations in the nature of gifts which would otherwise be held unconstitutional because of the provisions in the proposed section 16 (Article III, section 18, of the present constitution, as quoted above).

The final clause in regard to the debt of municipalities is inserted because of the provisions of Article VIII, section 8, as proposed (Article IX, section 9, of the present constitution), prohibiting the state government from assuming the debt of a municipality except to enable the commonwealth to repel invasion, to suppress insurrection or to defend itself in war. If the state government can assume the debt of a municipality under certain circumstances, it must also be able to appropriate money to pay the debt.

Changes in Style: The Commission's rules of style have been followed in the language of the section.

### Gratuities and Extra Compensation Forbidden.

1 Section 16. Except as in this constitution expressly provided,  
 2 no appropriation shall be made by the state government for  
 3 charitable, benevolent or educational purposes to any person or  
 4 community, and no law shall authorize a gratuity by the state  
 5 government, give extra compensation after services have been  
 6 rendered or contract made, or appropriate money to pay a claim  
 7 against the commonwealth without previous authority of law.

## Note.

Source: (1) Article III, section 11:

"No bill shall be passed giving any extra compensation to any public officer, servant, employe, agent or contractor, after services shall have been rendered or contract made,

## Art. III, Sec. 17

nor providing for the payment of any claim against the commonwealth without, previous authority of law."

(2) Part of Article III, section 18:

"No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community \* \* \*"

Changes in Substance: None.

Clarifying Changes: The language of Article III, section 18, of the present constitution, is ambiguous. It is not clear whether it is intended to prevent all gifts to persons or communities or simply to prevent appropriations to persons or communities to be used by them for charitable, educational or benevolent purposes.

The proposed section is drawn so as to cover both of these contingencies.

Changes in Style: The Commission's rules of style have been followed.

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### Approval and Veto by Governor.

1 Section 17. Every order, resolution or vote to which the con-  
2 currence of both houses shall be necessary, except on the question  
3 of adjournment or of agreement to an amendment to this consti-  
4 tution shall, if passed by the general assembly, be presented to  
5 the governor. If he approves it, he shall sign it and it shall then  
6 become a law. If he shall not approve it, he shall return it with  
7 his objections to the house in which it originated, which house  
8 shall enter the objections at large upon its journal. If, after re-  
9 consideration, two-thirds of the members elected to that house  
10 shall agree to pass the bill, it shall be sent with the governor's  
11 objections to the other house and if approved by two-thirds of  
12 the members elected to that house shall become law. The votes  
13 of each house shall be taken by yeas and nays and the names of  
14 the members voting for and of those voting against the bill shall  
15 be entered on the journal.

16 If a bill shall not be returned by the governor within ten days  
17 after it has been presented to him, it shall become law unless the  
18 general assembly by its adjournment prevents its return. In case  
19 of such adjournment the bill shall become law unless within  
20 thirty days after adjournment the governor shall file it with his  
21 objections in the office of the secretary of the commonwealth and  
22 shall give notice thereof by public proclamation.

### Note.

Source: (1) Article III, section 26:

"Every order, resolution or vote, to which the concurrence of both houses may be necessary, except on the question of adjournment, shall be presented to the governor and before



## Art. III, Sec. 18

it shall take effect be approved by him, or being disapproved; shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill."

## (2) Article IV, section 15:

"Every bill which shall have passed both houses shall be presented to the governor; if he approve it he shall sign it, but if he shall not approve it he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house by which likewise it shall be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall be a law, unless he shall file the same with his objections, in the office of the secretary of the commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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Approval and Veto of Appropriation Bills.

1 Section 18. The governor may indicate his approval or dis-  
2 approval of an appropriation bill by signing or vetoing it as in  
3 the case of other bills. If he shall approve one or more items  
4 and shall disapprove or reduce one or more other items, he shall  
5 return the bill to the house in which it originated setting forth  
6 his reasons. The items which he approves shall become law. The  
7 items which he disapproves or reduces may be passed over his  
8 objections by separate action on each item in the manner pre-  
9 scribed for the passage of bills over his veto. Such items not  
10 passed over his objections shall, in accordance with his recom-  
11 mendation, be stricken from the bill or shall become law as  
12 reduced by him.

## Art. III, Sec. 19

## Note.

Source: Article IV, section 16:

"The governor shall have power to disapprove of any item or items of any bill, making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto."

**Changes in Substance:** In practice, under the present constitution, the governor pares down various items of appropriation after the adjournment of the general assembly. It will be noted that under section 12 of this article, as proposed, the general assembly cannot adjourn for ten days after the general appropriation bill has been submitted to the governor. This obliges the governor either to approve or to disapprove all items of such a bill before adjournment of the general assembly and in case of his approval of all or part of an item, requires the general assembly, in turn, to reconsider the matter and to decide whether or not to pass the item in spite of the governor's disapproval.

**Clarifying Change:** It is made clear that the governor can cut down a single appropriation; that he can, for example, send back to the general assembly an appropriation bill carrying \$100,000 to a class of hospitals with the statement that he approves it in the sum of \$60,000. Under the present constitution, the governor's power to do this depends upon an opinion of the supreme court which gives to the word "item" the meaning of "any fraction of a lump sum." (*Commonwealth v. Barnett*, 199 Pa. 161.)

**Changes in Style:** The Commission's rules of style have been followed:

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### When Laws Shall Take Effect.

- 1 Section 19. A law shall become effective on the first day of
- 2 January after its enactment unless otherwise provided therein.

## Note.

**Source:** This is entirely new matter. The Commission believe that in ordinary cases some time should elapse between the enactment of a law and the time when it becomes effective, so that the public will have an opportunity to learn its provisions and to accommodate themselves in advance to the changes contemplated.

## Art. III, Sec. 20

## Local and Special Laws Forbidden.

1 Section 20. No local or special law shall be enacted:

2 (a) Regulating the affairs of a municipality;

3 (b) Changing the names of persons or places;

4 (c) For the creation or regulation of highways, ferries or  
5 bridges, except bridges across streams which form state bound-  
6 daries;

8 (d) Regulating burial grounds or public grounds not belong-  
9 ing to the commonwealth;

10 (e) Granting divorces or authorizing the adoption or legiti-  
11 mation of children;

12 (f) Regulating elections, except that laws regulating the  
13 registration of electors may be applied to cities or boroughs of  
14 a specified class only;

15 (g) Regulating the organization, jurisdiction and powers of  
16 courts of the same class or grade, judicial process, or the ad-  
17 ministration of justice;

18 (h) Regulating liens, the collection of debts or the effect of  
19 judicial sales of real estate;

20 (i) Regulating schools;

21 (j) Fixing the rate of interest;

22 (k) Regulating the estates of decedents, minors or persons  
23 under disability;

24 (l) Regulating labor, trade, mining or manufacturing;

25 (m) Creating corporations, or amending, renewing or extend-  
26 ing their charters;

27 (n) Exempting property from taxation;

28 (o) Granting a benefit, privilege or power.

29 No local or special law shall be indirectly enacted by the  
30 partial repeal of a general law. Laws repealing local or special  
31 laws may be enacted.

## Note.

Source: (1) Article III, section 7:

"The general assembly shall not pass any local or special  
law:

1 Authorizing the creation, extension or impairing of  
liens;

2 Regulating the affairs of counties, cities, townships,  
wards, boroughs or school districts;

3 Changing the names of persons or places;

4 Changing the venue in civil or criminal cases;

5 Authorizing the laying out, opening, altering or main-  
taining, roads, highways, streets or alleys;

6 Relating to ferries or bridges, or incorporating ferry or  
bridge companies, except for the erection of bridges  
crossing streams which form boundaries between  
this and any other state;

7 Vacating roads, town plats, streets or alleys;

## Art. III, Sec. 20

- 8 Relating to cemeteries, graveyards, or public grounds not of the state;
- 9 Authorizing the adoption or legitimation of children;
- 10 Locating or changing county seats, erecting new counties or changing county lines;
- 11 Incorporating cities, towns or villages, or changing their charters;
- 12 For the opening and conducting of elections, or fixing or changing the place of voting;
- 13 Granting divorces;
- 14 Erecting new townships or boroughs, changing township lines, borough limits or school districts;
- 15 Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts;
- 16 Changing the law of descent or succession;
- 17 Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors,
- 18 masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;
- 19 Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;
- 20 Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;
- 21 Fixing the rate of interest;
- 22 Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment;
- 23 Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury;
- 24 Exempting property from taxation;
- 25 Regulating labor, trade, mining or manufacturing;
- 26 Creating corporations, or amending, renewing or extending the charters thereof;
- 27 Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;
- 28 Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed;
- 29 Nor shall any law be passed granting powers or privileges in any case where the granting of such powers

## Art. III, Sec. 20

and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for."

## (2) Article VIII, section 7:

"All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the state; but laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class."

## (3) Part of Article V, section 26:

"All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgment of such courts, shall be uniform; \* \* \*"

Changes in Substance: (1) In clause (a) "a municipality" has been substituted for "counties, cities, townships, wards, boroughs or school districts." This makes the clause cover poor districts under the present organization of the state and cover also any other kind of municipality which may be created in the future.

(2) In clause (f) boroughs as well as cities are included. There would appear to be no valid reason why the exception should not apply to boroughs as well as to cities.

(3) Clause (i) takes the place of clause 20 in the present constitution, omitting the word "public" so that the section will apply also to private schools.

(4) The exception in clause 22 in the present constitution has been omitted.

Clarifying Changes: Clause 16, of the present constitution, "changing the law of descent or succession" refers, strictly speaking, only to devolution of property in cases of intestacy. The Commission have assumed that it was intended to have a wider application and have therefore used in clause (k) the words "regulating the estates of decedents."

Changes in Style: The section has been very considerably shortened, without omitting any substantive provision. The following analysis will show to which of the new clauses the substance of each of the clauses of the present constitution has been transferred. (The numerals refer to the number of the clauses in the present constitution.)

**1 to (h)**

2 to (a). The provisions of clauses 10, 11, 14, 15 and 19 are also included in (a), since the phrase "affairs of a municipality" covers "whatever affects the interest or welfare of the inhabitants." (See opinions of the Supreme Court in

## Art. III, Sec. 20

Morrison v. Bachert, 112 Pa. 322; Frost v. Cherry, 122 Pa. 417; Sample v. Pittsburgh, 212 Pa. 533; Montgomery v. Commonwealth, 91 Pa. 125; In re Pottstown Borough, 117 Pa. 538.)

3 to (b)

4 to (g)

5 to (c). The words "laying out, opening, altering or maintaining" are included in the words "creation or regulation." The word "highways" has been used to cover the different kinds of highways named in the present constitution.

6 to (c). The words "relating to" have been included in the words "creation or regulation," which are more accurate. The clause "or incorporating ferry or bridge companies" has been omitted because included in clause (m).

7 to (c). "Vacating" is included in the word "regulation." Specific reference to town plats has been omitted because vacating a town plat must have the effect either of regulating highways or of regulating the affairs of a municipality. In one event the situation is covered by clause (c) and in the other event by clause (a).

8 to (d)

9 to (e)

10 to (a)

11 to (a)

12 to (f). The exception in (f) with respect to registration laws is taken from Article VIII, section 7, of the present constitution.

13 to (e)

14 to (a)

15 to (a) except that the reference to election districts is covered by (f).

16 to (k)

17 to (g). It will be noted that in the present clause the grammar is defective although the meaning is fairly clear. There is no such thing as "the practice of any judicial proceeding." The provisions of the first part of Article X, section 26, of the present constitution, are also included in (g).

18 to (h). "The collection of debts" includes "the enforcing of judgments."

19 to (g)

20 to (i)

21 to (j)

22 to (k)

23 to (o)

24 to (o)

25 to (l)

26 to (m)

27 to (o)

28 to final unlettered paragraph.

29 to section 26-D, of Article III.

## Art. III, Sec. 21

The language of clause 27 was probably intended to apply only to special benefits, powers and privileges, such, for instance, as the granting of a divorce. If this is the correct interpretation of the provision of the present constitution, it is included in clause (o), as proposed, which forbids a special law "granting a benefit, privilege or power." If the language quoted from the present constitution means more than this, the exact meaning is not clear to us. If it is intended to express the idea that a general law cannot grant a benefit, privilege or power which the courts are empowered to grant, it simply repeats the principle expressed in Article V, section 1, that "the judicial power of the commonwealth is vested" in the courts and cannot therefore be exercised by the law-making authority. If it is intended to prevent administrative officers from exercising concurrent jurisdiction with the courts, it can apply only to matters relating to "the conduct of elections" (Article V, section 19, as proposed; Article V, section 21, of the present constitution), since all other powers of the courts are necessarily exclusive because either judicial or appointive.

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Damages for Injuries.

1 Section 21. Laws may be enacted requiring the payment by  
2 employers, or by employers and employees jointly, of reasonable  
3 compensation for injuries to employees arising in the course of  
4 their employment and for occupational diseases of employees,  
5 whether or not such injuries or diseases result in death and re-  
6 gardless of fault of employer or employee, fixing the basis of ascer-  
7 tainment of such compensation and its maximum and minimum  
8 limits, and providing special or general remedies for the collec-  
9 tion thereof. In no other case shall a limit be set by law upon  
10 the amount to be recovered for injuries to persons or property.  
11 In case of death from injuries, the right of action therefor shall  
12 survive and shall be exercised by persons as designated by law.

## Note.

Source: Part of Article III, section 21:

"The general assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the general assembly

## Art. III, Sec. 22

limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such actions shall be prosecuted. \* \* \*” (Amendment of November 2, 1915.)

Changes in Substance: None.

Changes in Style: The substance of the last sentence of Article III, section 21 of the present constitution, is transferred to Article IX, section 9-E, because in the constitution as proposed all provisions pertaining exclusively to corporations are placed under Article IX.

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### Land Titles.

1 Section 22. Laws may be enacted providing that the state  
2 government or the counties may register, transfer, insure or guar-  
3 antee titles to lands, and providing for the determination of  
4 interests in such lands and for the creation of indemnity funds.  
5 For such purposes courts may be established and judicial powers  
6 may be conferred upon officers of the state government or of the  
7 counties, subject to the right of appeal by the parties interested  
8 to the courts.

### Note.

Source: Amendment of November 2, 1915, which has no article or section number:

“Laws may be passed providing for a system of registering, transferring, insuring of and guaranteeing land titles by the state, or by the counties thereof, and for settling and determining adverse or other claims to and interest in lands the titles to which are so registered, transferred, insured and guaranteed; and for the creation and collection of indemnity funds; and for carrying the system and powers hereby provided for into effect by such existing courts as may be designated by the legislature, and by the establishment of such new courts as may be deemed necessary. In matters arising in and under the operation of such system, judicial powers, with right of appeal, may be conferred by the legislature upon county recorders and upon other officers by it designated. Such laws may provide for continuing the registering, transferring, insuring, and guaranteeing such titles after the first or original registration has been perfected by the court, and provision may be made for raising the necessary funds for expenses and salaries of officers, which shall be paid out of the treasury of the several counties.”

Changes in Substance: None.



## Art. III, Secs. 23, 24

Changes in Style: The section has been considerably shortened by the elimination of unnecessary phrases.

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**Militia.**

- 1 Section 23. Laws shall be enacted to provide for the arming,
- 2 organization, maintenance and discipline of the citizens of the
- 3 commonwealth for its defense. Persons having conscientious
- 4 scruples against bearing arms may be exempted by law from mili-
- 5 tary service.

**Note.**

Source: Article XI, section 1:

“The freemen of this commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The general assembly shall provide for maintaining the militia by appropriations from the treasury of the commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.”

Changes in Substance: None.

Changes in Style: In the constitution of 1874 this section for the first time appeared as a separate article, with one section. The Commission regard it as unnecessary to treat this subject in a separate article because it can be completely dealt with in one section and because, in its general nature, it is like other provisions in Article III. The word citizen is employed rather than freemen because all persons in this state are free.

The language has been changed in accordance with the Commission's rules of style.

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**Streams.**

- 1 Section 24. Laws shall be enacted to provide for maintaining
- 2 the purity of streams.

**Note.**

Source: This is entirely new matter, inserted so as to impose upon the law-making power a constitutional mandate to perform what the Commission consider a very important duty.

## Art. III, Secs. 25, 26

## Legislation at Special Sessions.

- 1 Section 25. At a special session, there shall be no legislation
- 2 upon subjects other than those designated in the proclamation
- 3 of the governor calling such session.

## Note.

Source: Article III, section 25:

“When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Change of Capital.

- 1 Section 26. No law changing the location of the capital shall
- 2 be valid unless ratified by a majority of the electors of the
- 3 commonwealth voting on the question.

## Note.

Source: Article III, section 28:

“No law changing the location of the capital of the state shall be valid until the same shall have been submitted to the qualified electors of the commonwealth at a general election and ratified and approved by them.”

Changes in Substance: None.

Clarifying Change: It has been made clear that only a majority of the electors voting on the question, not a majority of all the electors who vote, must ratify the proposed law.

Changes in Style: The Commission's rules of style have been followed.

Art. IV, Sec. 1

## - ARTICLE IV.

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### THE EXECUTIVE.

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#### Preliminary Note.

Source: Article IV.

Arrangement: The order of subjects is as follows:

Vesting of executive power—section 1.

Governor—sections 2 to 12, inclusive.

Lieutenant Governor—section 13.

Vacancy in office of governor or of lieutenant-governor—sections 14, 15, 16.

Secretary of the commonwealth—section 17.

Secretary of internal affairs—section 18.

Auditor general and state treasurer—section 19.

State contracts—sections 20, 21.

Seal and commissions—section 22.

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#### Executive Power.

- 1 Section 1. The executive power of the commonwealth shall be
- 2 vested in a governor, a lieutenant-governor, a secretary of the
- 3 commonwealth, an attorney general, an auditor general, a state
- 4 treasurer, a secretary of internal affairs, a commissioner of edu-
- 5 cation, and in other executive officers as prescribed by law.

#### Note.

Source: Article IV, section 1, which reads:

“The executive department of this commonwealth shall consist of a governor, lieutenant-governor, secretary of the commonwealth, attorney general, auditor general, state treasurer, secretary of internal affairs and a superintendent of public instruction.”

Changes in Substance: The clause “other executive officers as prescribed by law” is new. It permits the creation of new executive departments co-ordinate with those specifically mentioned. The experience of the federal government shows that it is wise to allow for this kind of growth.

Changes in Style: (1) The section is made to conform to the first sections of the legislative and judicial articles by vesting the executive power of the commonwealth in certain officers, being all the executive officers named in the consti-

## Art. IV, Sec. 2

tution, and in "other executive officers as prescribed by law." The present constitution states that the executive department consists of certain officers. This is inaccurate, because the executive department or branch of the state government consists of all of its officers.

(2) The title of superintendent of public instruction is changed to commissioner of education because a state council of education with a state commissioner of education as its chief executive officer is provided for in Article XI, section 2.

## Qualifications of Governor.

1 Section 2. The governor shall be a citizen of the United States  
2 at least thirty years of age. He shall have been a resident of the  
3 state for seven years next preceding his election unless absent  
4 on the public business of the United States or of the state govern-  
5 ment.

## Note.

Source: Article IV, section 5, which reads:

"No person shall be eligible to the office of governor or lieutenant-governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the state, unless he shall have been absent on the public business of the United States or of this state."

Changes in Substance: None.

Clarifying Change: Under the present constitution it is not clear whether the absence on public business referred to in section 5 includes not only public business of the state government, but also public business of a municipality. For instance, if a man had been for some years in Europe investigating highway conditions for the city of Pittsburgh, would he be eligible to the governorship? The proposed form answers this question in the negative.

Changes in Style: (1) The lieutenant governor is not mentioned because his qualifications are covered by section 13 of this article.

(2) "Inhabitant" is changed to the more common word "resident." The fourteenth amendment to the constitution of the United States makes all persons born or naturalized in the United States and subject to the jurisdiction thereof "citizens of the United States and of the state wherein they reside." Since it is intended that the governor should be not only a citizen of the United States, but also a citizen of the commonwealth, he should be required to reside in the state, so as to conform to the language of the federal constitution.

## Art. IV, Secs. 3, 4

## Election of Governor.

1 Section 3. The governor shall be chosen by the electors of  
 2 the commonwealth at the places where they shall vote for repre-  
 3 sentatives. The returns of the election shall be sealed up and  
 4 transmitted to the seat of government, directed to the president  
 5 of the senate, who shall open and publish them in the presence  
 6 of the members of both houses of the general assembly. The  
 7 person having the highest number of votes shall be governor. If  
 8 two or more shall have the same and the highest number of votes,  
 9 one of them shall be chosen governor by the joint vote of the  
 10 members of both houses.

## Note.

Source: Part of Article IV, section 2, which reads:

“\* \* \*; he shall be chosen on the day of the general election, by the qualified electors of the commonwealth, at the places where they shall vote for representatives. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. \* \* \*”

Changes in Substance: None.

Changes in Style: (1) The reference to the general elections is omitted because covered by Article VIII, section 1, of the constitution as proposed.

(2) The words “if two or more shall have the same and the highest number of votes” are substituted for the words “if two or more be equal and highest in votes,” for the sake of more accurate English.

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 Contested Election of Governor.

1 Section 4. A contested election of a governor shall be deter-  
 2 mined by a committee selected from both houses of the general  
 3 assembly and formed and regulated as prescribed by law.  
 4 The chief justice of the supreme court shall preside at the trial  
 5 of such a contested election. He shall determine questions re-  
 6 garding the admissibility of evidence and shall, upon request of  
 7 the committee, pronounce his opinion upon others questions of  
 8 law.

## Art. IV, Sec. 5

## Note.

Source: (1) Part of Article IV, section 2, as follows:

"\* \* \* Contested elections (governor and lieutenant-governor) shall be determined by a committee, to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law."

(2) Part of Article IV, section 17, which reads:

"The chief justice of the supreme court shall preside upon the trial of any contested election of governor or lieutenant-governor, and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial \* \* \*."

Changes in Substance: None.

Changes in Style: (1) The reference to the lieutenant-governor in Article IV, section 2 of the present constitution, is omitted because covered by section 13.

(2) The last sentence of Article IV, section 17, of the present constitution, is transferred to Article IV, section 5, of the constitution as proposed, thus leaving this section to deal only with contested elections.

## Term of Governor.

1 Section 5. The governor shall hold office for four years from  
2 the third Tuesday of January succeeding his election or until  
3 his successor shall qualify. A person elected governor shall not  
4 be eligible for the succeeding term.

## Note.

Source: (1) Article IV, section 3, which reads:

"The governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and not be eligible to the office for the next succeeding term."

(2) Part of Article IV, section 17, as follows:

"... The governor and lieutenant-governor shall exercise the duties of their respective offices until their successors shall be duly qualified."

Changes in Substance: None.

Clarifying Changes: In the second sentence the words "A person elected governor" are used so as to make it clear that a lieutenant-governor who has discharged the duties of governor because of the governor's death or disability may nevertheless be elected governor at the next gubernatorial election.

## Art. IV, Secs. 6, 7, 8

Changes in Style: The reference to the lieutenant-governor, in Article IV, section 17, of the present constitution, is omitted because covered by section 13.

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**Supreme Executive Power.**

1 Section 6. The supreme executive power shall be vested in  
2 the governor, who shall take care that the laws be faithfully  
3 executed.

**Note.**

Source: The first clause of Article IV, section 2:

“The supreme executive power shall be vested in the governor, who shall take care that the law be faithfully executed;  
\* \* \*.”

Changes in Substance: None.

Changes in Style: The wording of the present constitution is copied verbatim.

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**Military Power.**

1 Section 7. The governor shall be the commander-in-chief of  
2 the army and navy of the commonwealth, and of the militia,  
3 except when they shall be called into the service of the United  
4 States.

**Note.**

Source: Article IV, section 7, which reads:

“The governor shall be commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the actual service of the United States.”

Changes in Substance: None.

Changes in Style: The word “actual” is omitted because it adds nothing to the meaning.

---

**Appointing Power.**

1 Section 8. The governor shall appoint a secretary of the com-  
2 monwealth, an attorney general, a secretary of internal affairs  
3 and a commissioner of education, to serve during his pleasure,  
4 and other officers as prescribed by law.

## Art. IV, Sec. 8

5 When the senate is in regular session, the governor shall exer-  
6 cise the power to appoint an officer only after nomination to the  
7 senate and by and with the advice and consent of a majority of  
8 its members, except where he shall appoint to fill a vacancy oc-  
9 curring within ten days before final adjournment of the session.

10 The governor may fill by appointment a vacancy in an office  
11 to which he may appoint. If he shall appoint to an appointive  
12 office during a recess of the senate or to fill a vacancy occurring  
13 within ten days before final adjournment of a regular session  
14 thereof, such appointment shall be valid until the end of the  
15 next regular session of the senate, and the person so appointed  
16 shall be deemed to have been rejected by the senate at such  
17 session unless nominated by the governor and confirmed by the  
18 senate.

19 The governor may fill by appointment a vacancy in the office  
20 of auditor general or of state treasurer and in any other elective  
21 office which he may be authorized to fill. Such vacancy shall be  
22 filled by election on the next election day appropriate to the  
23 office which shall fall not less than sixty days after the occur-  
24 rence of the vacancy. Such appointee shall serve until the person  
25 so elected shall take office as prescribed by law.

26 If a power of appointment to an appointive or elective office  
27 shall arise during a session of the senate and not within ten days  
28 before final adjournment, the governor shall, at such session,  
29 nominate a proper person for the office. If a power of appoint-  
30 ment to an appointive office shall arise within ten days before  
31 final adjournment of a session of the senate or during a recess  
32 of the senate, he shall, at the next session of the senate nominate  
33 a proper person for the office. In either case, if the senate shall  
34 reject a nomination and shall notify the governor that it will  
35 not adjourn within ten days, he shall nominate another person  
36 for the office. If he shall fail to nominate as herein required, he  
37 may not appoint to the office except after nomination to the  
38 senate and by and with the advice and consent of a majority  
39 of its members.

40 If the nomination of a person to an office shall be rejected by  
41 the senate he shall not be appointed to such office before the next  
42 session of the senate.

43 In acting on executive nominations, the senate shall sit with  
44 open doors. The vote shall be taken by yeas and nays and shall  
45 be entered on the journal.

## Note.

Source: (1) Article IV, section 8, which reads:

“He shall nominate and, by and with the advice and con-  
sent of two-thirds of all the members of the senate, appoint  
a secretary of the commonwealth and an attorney general  
during pleasure, a superintendent of public instruction for  
four years, and such other officers of the commonwealth as  
he is or may be authorized by the constitution or by law  
to appoint; he shall have power to fill all vacancies that



## Art. IV, Sec. 8

may happen, in offices to which he may appoint, during the recess of the senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the senate, in the office of auditor general, state treasurer, secretary of internal affairs or superintendent of public instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the vacancy shall happen during the session of the senate, the governor shall nominate to the senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive nominations the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor, the vote shall be taken by yeas and nays and shall be entered on the journal." (Amendment of November 2, 1909.)

## (2) Article V, section 25, which reads:

"Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy."

Changes in Substance: (1) The secretary of internal affairs is to be appointed by the governor, and not elected as at present. His election is by inference a constitutional mandate, since in Article IV, section 8, of the present constitution, above quoted, he is placed in a list ending with the words "or in any other elective office." The Commission believe that he should be appointed because he is simply a subordinate executive officer having the same relation to the governor as the attorney general or the secretary of the commonwealth. The state treasurer and auditor general are in a very different position because of their financial responsibilities.

(2) A majority of the members of the senate is required to consent to appointments, instead of two-thirds, as heretofore. The Commission believe that to require consent of two-thirds is to increase the probability of deadlocks and that the majority rule, as established by Article II, section 2, of the constitution of the United States, is better.

(3) New provisions have been introduced so as to carry into effect the principle that the governor should, so far as possible, obtain the consent of the senate to all appointments.

## Art. IV, Sec. 8

The operation of these provisions can best be explained by the following illustrations:

(a) The secretary of the commonwealth dies while the senate is in recess. The governor immediately appoints A to fill the vacancy. During its next session the senate refuses to consent to the appointment of A.

Under the present constitution the governor can wait until the end of the session and can then reappoint A for two more years. Under the proposed new section (lines 40 to 42) the governor could not appoint a person who had been so rejected.

(b) A vacancy is filled as in (a). During the next session of the senate the governor fails to send in any nomination for the office.

Under the present constitution he can wait until the end of the session and can then reappoint A or appoint B. Under the proposed new section he would lose his power of appointment by the provisions of lines 36 to 39.

(c) A vacancy is filled as in (a). During the next session of the senate the governor sends several nominations to the senate, but does not nominate A. All the nominations are rejected.

Under the present constitution, the governor can wait until the end of the session and can then reappoint A. Under the proposed new section he could not do this, because by lines 40 to 42, A would be in the position of a rejected nominee.

(d) Under the present constitution, if the secretary of the commonwealth dies just before the senate convenes, it is doubtful whether the governor can wait until after the senate convenes and then appoint a successor without the senate's consent. Probably he cannot.

In the proposed section it is made clear that the governor must try to obtain the consent of the senate if the appointment is made or the vacancy occurs during a session of the senate and that in either case he cannot after adjournment appoint a person rejected by the senate.

(4) In paragraph 4, line 23, "two calendar months" has been changed to "sixty days."

(5) In paragraph 4, the provision in the present constitution, Article V, section 25, that the appointee of the governor to a judicial vacancy shall hold office until the first Monday in January next preceding the first general election has been changed, for the sake of uniformity with the provisions relating to other appointees of the governor, to the provision that such appointee shall serve until the person elected to the vacancy shall take office as prescribed by law.

(6) It is provided (lines 20 to 24) that judicial vacancies ("any other elective office which he may be authorized to fill") shall be filled by election on the next appropriate election day falling not less than sixty days after the occurrence

## Art. IV, Sec. 9

of the vacancy. The time limit set by the present constitution (Article IX, section 25) is three months. The change is in the interest of uniformity and to avoid the conflict now existing between Article IV, section 8, and Article V, section 25, of the present constitution.

(7) In the present constitution there is no express statement as to the duration of an appointment to an elective office. In the proposed new section it is provided (lines 24 and 25) that such an appointment shall be valid until the person elected to fill the vacancy shall take office.

Changes in Style: The provisions of the section have been arranged as follows:

- (a) Duty to appoint constitutional officers.
- (b) Duty to obtain consent of senate if in session.
- (c) Vacancies in appointive offices.
- (d) Vacancies in elective offices.
- (e) Duty to obtain consent of senate in all cases so far as possible.
- (f) Disqualification of a rejected nominee.
- (g) Procedure of senate.

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### Pardoning Power.

1 Section 9. The governor may remit fines and forfeitures, and  
 2 may grant reprieves, commutations of sentence and pardons,  
 3 except in cases of impeachment. He shall commute a sentence  
 4 or grant a pardon only on the recommendation in writing of  
 5 the lieutenant-governor, the secretary of the commonwealth, the  
 6 attorney general and the secretary of internal affairs, or for any  
 7 three of them, after full hearing, upon due public notice and in  
 8 open session. Such recommendation, with the reasons therefor  
 9 at length, shall be recorded and filed in the office of the secretary  
 10 of the commonwealth.

### Note.

Source: Article IV, section 9, which reads:

“He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the lieutenant-governor, secretary of the commonwealth, attorney general and secretary of internal affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the secretary of the commonwealth.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

## Art. IV, Secs. 10, 11, 12

## Power to Require Information.

- 1 Section 10. The governor may require information in writing  
2 from the executive officers of the state government with respect  
3 to their duties.

## Note.

Source: Article IV, section 10, which reads:

“He may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.”

Changes in Substance: None.

Changes in Style: “Executive officers of the state government” has been used because the word “department” has been employed to mean a principal sub-division of the executive branch of the government.

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## Duty to Inform General Assembly.

- 1 Section 11. The governor shall, from time to time, give to the  
2 general assembly information of the state of the commonwealth,  
3 and shall recommend to its consideration such measures as he  
4 may judge expedient.

## Note.

Source: Article IV, section 11, which reads:

“He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he may judge expedient.”

Changes in Substance: None.

Changes in Style: The Commission’s rules of style have been followed.

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## Power to Adjourn or Convene General Assembly.

- 1 Section 12. The governor, in case of disagreement between  
2 the two houses of the general assembly with respect to the time  
3 of adjournment, may adjourn them to such time as he may think  
4 proper not exceeding four months. He may on extraordinary oc-  
5 casions convene, by proclamation, the general assembly and he  
6 may convene, by proclamation, the senate for the transaction of  
7 executive business.

## Art. IV, Sec. 13

## Note.

Source: Article IV, section 12, which reads:

"He may, on extraordinary occasions, convene the general assembly, and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months. He shall have power to convene the senate in extraordinary session by proclamation for the transaction of executive business."

Changes in Substance: None.

Clarifying Change: The language of the present constitution suggests that the governor can only adjourn the general assembly if the two houses fail to agree upon the time of adjourning a special session. The principle that the governor's power extends to regular as well as special sessions is made clear in the section as proposed.

Changes in Style: The Commission's rules of style have been followed.

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### Lieutenant-Governor.

1 Section 13. The lieutenant-governor shall have the same quali-  
 2 fications and shall be chosen at the same time, in the same  
 3 manner, and for the same term as the governor. He shall not  
 4 be eligible to the office of lieutenant-governor for the succeeding  
 5 term. A contested election of lieutenant-governor shall be con-  
 6 ducted in the same manner as a contested election of governor.  
 7 The lieutenant-governor shall be president of the senate, but  
 8 shall have no vote unless the senate be equally divided.

Source: (1) Article IV, section 4:

"A lieutenant-governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the governor; he shall be president of the senate, but shall have no vote unless they be equally divided."

(2) Article IV, section 17, relative to contested elections, which has been transferred to Article IV, section 4 as proposed, omitting reference to the lieutenant-governor, has, in the section here proposed been expressly applied to the lieutenant-governor.

Changes in Substance: None.

Changes in Style: The requirement of Article IV, section 4, of the present constitution, that the lieutenant-governor shall be "subject to the same provisions as the governor" refers only to his ineligibility to re-election and to the method of

## Art. IV, Sec. 14

determining a contested election. Both have been expressly covered by the proposed new section and the indefinite phrase, "subject to the same provisions," has been dropped.

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## Succession to Governorship.

1 Section 14. If the office of governor shall be vacant the lieu-  
 2 tenant-governor shall become governor. If the governor shall  
 3 fail to qualify or shall be under a disability, the powers, duties  
 4 and emoluments of his office until the end of the governor's term  
 5 or until he shall qualify or his disability shall be removed shall  
 6 devolve on the lieutenant-governor, or, if his office shall be vacant  
 7 or he shall be under a disability, then the president pro tempore  
 8 of the senate, or if his office shall be vacant or he shall be under  
 9 a disability, then on a person elected by a majority of the mem-  
 10 bers of the general assembly. For the purpose of such election,  
 11 the general assembly may convene in special session without a  
 12 proclamation of the governor upon a call signed by five members  
 13 of each house.

## Note.

Source: (1) Article IV, section 13:

"In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the governor, the powers, duties and emoluments of the office, for the remainder of the term, or until the disability be removed, shall devolve upon the lieutenant-governor."

(2) Part of Article IV, section 14:

"In case of a vacancy in the office of lieutenant-governor, or when the lieutenant-governor shall be impeached by the house of representatives or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder of the term or until the disability be removed shall devolve upon the president pro tempore of the senate, and the president pro tempore of the senate shall in like manner become governor if a vacancy or disability shall occur in the office of governor: \* \* \*."

Changes in Substance: The section as proposed provides a method of filling a vacancy in the office of governor or of providing for the governor's disability, in case there is a vacancy in the office of the governor or the governor is under a disability and at the same time there exists a vacancy in the office of lieutenant-governor or the lieutenant-governor is under a disability, and also, there is a vacancy in the office of president pro tempore or he is under a disability.

## Art. IV, Sec. 15

Clarifying Changes: The section as proposed makes it clear that if the office of governor becomes vacant, the lieutenant-governor or the president pro tempore of the senate, becomes governor and not merely acting governor; while, if the governor fails to qualify or is under a disability the lieutenant-governor, or the president pro tempore of the senate, does not become governor but merely exercises the power of governor until the disability is removed or the governor's term expires.

Changes in Style: Instead of enumerating the causes of a vacancy, they have all been expressed in the clause, "if the office of the governor shall be vacant."

### Succession in Lieutenant-Governorship.

1 Section 15. If the office of lieutenant-governor shall be vacant  
 2 or if he shall fail to qualify or shall be absent or under a disa-  
 3 bility, the powers, duties and emoluments of his office shall de-  
 4 velop on the president pro tempore of the senate, until the end  
 5 of his term or until he shall qualify or return or his disability  
 6 shall be removed. In such event the seat in the senate of the  
 7 president pro tempore of the senate shall become vacant.

#### Note.

Source: Article IV, section 14:

"In case of a vacancy in the office of lieutenant-governor, or when the lieutenant-governor shall be impeached by the house of representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder of the term, or until the disability be removed, shall devolve upon the president pro tempore of the senate; and the president pro tempore of the senate shall in like manner become governor if a vacancy or disability shall occur in the office of governor; his seat as senator shall become vacant whenever he shall become governor, and shall be filled by election as any other vacancy in the senate."

Changes in Substance: The contingency of failure to qualify has been specially mentioned so that if a person elected lieutenant-governor shall die before qualifying the duties of the lieutenant-governor will be exercised by the president pro tempore of the senate and not by the preceding lieutenant-governor who, by Article IV, section 17 of the present constitution, would hold office until his successor qualified.

Changes in Style: The causes of a vacancy have all been expressed in the clause "if the office of lieutenant-governor shall be vacant."

## Art. IV, Secs. 16, 17

**Determination of Disability.**

1 Section 16. The fact of disability of the governor, or of the  
2 lieutenant-governor, or of a person upon whom the powers and  
3 duties of either office would otherwise devolve, shall be deter-  
4 mined only by the supreme court on the address of the general  
5 assembly, agreed to by a majority of the members of each house,  
6 or, if the general assembly be not in session, on the written ad-  
7 dress of such majority.

**Note.**

Source: This is entirely new matter. It covers the situation which would arise if a governor or a lieutenant-governor should have a prolonged illness or should temporarily or permanently lose his mind.

Under the present constitution, any executive officer except the governor, the lieutenant-governor and the superintendent of public instruction, could be removed, in such a contingency, either by the appointing power or by the governor upon address of two-thirds of the senate (Article VI, section 4), and a judge not a member of the supreme court could be removed by the governor on the address of two-thirds of each house of the general assembly (Article V, section 15). The Commission propose an appointed commissioner of education instead of the superintendent of public instruction (see Article IV, section 8 and Article X, section 1). This leaves only the governor, the lieutenant-governor and the justices of the supreme court for whose removal no method is now provided except impeachment.

It is therefore important that there should be lodged in a permanent body the power to determine whether or not the disability of the governor or of the lieutenant-governor is such as to justify filling the office with another person. The disability of a supreme court justice cannot well be determined by his associates. Such disability impairs only one of a body of seven men. It therefore seems best not to attempt to provide for a determination of the fact of disability of a supreme court justice.

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**Secretary of the Commonwealth.**

1 Section 17. The secretary of the commonwealth shall keep a  
2 record of the official acts and proceedings of the governor, and  
3 perform other duties as prescribed by law. He may be required  
4 by either house of the general assembly to exhibit his record with  
5 the papers, minutes and vouchers relating thereto.



## Art. IV, Secs. 18, 19

## Note.

Source: Article IV, section 18:

"The secretary of the commonwealth shall keep a record of all official acts and proceedings of the governor, and when required lay the same, with all papers, minutes and vouchers relating thereto, before either branch of the general assembly, and perform such other duties as may be enjoined upon him by law."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

### Secretary of Internal Affairs.

- 1 Section 18. Until otherwise prescribed by law, the secretary
- 2 of internal affairs shall exercise the powers and perform the
- 3 duties prescribed by law when this constitution becomes effective.
- 4 His department shall embrace a bureau of industrial statistics.

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

### Auditor General and State Treasurer.

- 1 Section 19. The auditor general and the state treasurer shall
- 2 be chosen by the electors of the commonwealth. Each shall
- 3 hold his office for four years and neither shall be eligible for
- 4 the succeeding term.

## Note.

Source: Article IV, section 21:

"The terms of the secretary of internal affairs, the auditor general, and the state treasurer shall each be four years; and they shall be chosen by the qualified electors of the state at general elections, but a state treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successors shall be elected at the general election in the year one thousand nine hundred and twelve, and in every fourth year thereafter. No person elected to the office of auditor general or state treasurer shall be capable of holding the same office for two consecutive terms." (Amendment of November 2, 1909.)

Changes in Substance: The secretary of internal affairs is omitted because it is recommended that his office be made appointive. See note to Article IV, section 8 as proposed.

## Art. IV, Secs. 20, 21

Changes in Style: The words "at general elections" are omitted because this requirement is stated in Article VII, section 1 as proposed.

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State Contracts.

1 Section 20. No member of the general assembly or officer or  
2 employe of the state government shall be interested in a contract  
3 with the state government, or in furnishing thereto materials  
4 or supplies.

Note.

Source: Part of Article III, section 12:

"\* \* \* no member or officer of any department of the government shall be in any way interested in such contracts" (contracts for stationery, printing, paper and fuel used in the legislative and other department of the state government, for printing and binding and for repairing and furnishing the halls and rooms used by the general assembly and its committees) "\* \* \*."

Changes in Substance: The section proposed extends the principle that an officer shall not be interested in contracts with the state government to all contracts for the selling or leasing of property or in rendering to the state government for compensation services other than official services. The present constitution merely prevents the officer having an interest in contracts for printing and binding for the state government and supplying furnishings and fuel for the capitol buildings, repairs thereto and paper and stationery for the state government.

The section as proposed extends the prohibition to all employes of the state government as well as to all officers. The present constitution confines the prohibition to officers.

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Public Printing and Supplies.

1 Section 21. The printing and binding for the state govern-  
2 ment shall be done under contract or by the state government.  
3 Furnishings and fuel for the capitol buildings and paper and  
4 stationery for the state government shall be made or produced  
5 by the state government or procured under contract. Contracts  
6 for work or material designated in this section shall be awarded  
7 to the lowest responsible bidder subject to the approval of the  
8 auditor general and of the state treasurer.

## Art. IV, Sec. 22

Source: Part of Article III, section 12:

"All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished and the printing, binding and distributing of the laws, journals, department reports and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price and under such regulations as shall be prescribed by law;  
\* \* \*"

Changes in Substance: (1) The state government is permitted to do its own printing and binding instead of being required to let all such work on contract. This would permit a change in the system if a change should seem desirable.

(2) "Fuel used in the legislative and other departments of government" has been changed to "fuel for the capitol buildings" because that is the principal place of its use where procuring by contract is both feasible and prudent.

(3) The requirement in regard to repairs of the halls and rooms of the general assembly is omitted because the state is now in a position to do its repair work at the capitol buildings.

(4) The provision that every contract must be at a figure below a maximum price prescribed by law is omitted, because the Commission believe that the public interests will be entirely protected by requiring the contract to be awarded only to the lowest responsible bidder and to be approved by the auditor general and by the state treasurer.

(5) The approval of the governor is dispensed with because in practice his approval has necessarily become a mere matter of routine involving no real personal consideration of the proposed contract.

Changes in Style: The Commission's rules of style have been followed.

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### Seal and Commissions.

1 Section 22. The present great seal of Pennsylvania shall be  
2 the seal of the commonwealth. Commissions shall be in the name  
3 and by the authority of the commonwealth of Pennsylvania. They  
4 shall be sealed with the seal of the commonwealth and signed by  
5 the governor.

### Note.

Source: Article IV, section 22:

"The present great seal of Pennsylvania shall be the seal of the state. All commissions shall be in the name and by authority of the commonwealth of Pennsylvania, and be sealed with the state seal and signed by the governor."

## Art. V, Sec. 1

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## ARTICLE V.

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### THE JUDICIARY.

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#### Preliminary Note.

Source: Article V of the present Constitution.

Arrangement:

Vesting of judicial power—section 1.

Supreme court and its jurisdiction—sections 2, 3, 4.

Superior court and its jurisdiction—sections 5, 6.

Courts of common pleas and their jurisdiction—sections 7 to 10, inclusive.

Criminal courts—section 11.

Orphans' courts—section 12.

Justices of the peace—sections 13, 14.

Provisions common to all courts—sections 15 to 20, inclusive.

Appeals—sections 21, 22.

Procedural matters—sections 23 to 25, inclusive.

#### Judicial Power.

- 1 **Section 1.** The judicial power of the commonwealth shall be
- 2 vested in a supreme court, a superior court, in courts of common
- 3 pleas, courts of oyer and terminer and general jail delivery.
- 4 courts of quarter sessions of the peace, orphans' courts, justices
- 5 of the peace, and in such other courts as may from time to time
- 6 be established by law.

#### Note.

Source: Article V, section 1:

"The judicial power of this commonwealth shall be vested in a supreme court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the general assembly may from time to time establish."

Changes in Substance: The superior court is added as a constitutional court.

## Art. V, Secs. 2, 3

Changes in Style: The words "justices of the peace" have been used as more accurate than "magistrates' courts."

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Supreme Court.

1 Section 2. The supreme court shall consist of seven judges  
2 learned in the law, who shall have the title of justice, chosen  
3 by the electors of the commonwealth. They shall hold office  
4 for twenty-one years and shall not again be eligible. The judge  
5 longest in continuous service shall be chief justice.

Note.

Source: Article V, section 2:

"The supreme court shall consist of seven judges, who shall be elected by the qualified electors of the state at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice."

Changes in Substance: The requirement that the justices of the court shall be learned in the law has been added.

Changes in Style:

(1) The words "who shall have the title of justice" are used because the members of the supreme court are always so designated in practice, although it is desirable that they should be considered "judges" on account of numerous other provisions of the constitution referring to all judges, including the members of the supreme court.

(2) The language of the final sentence is more accurate than that of the present constitution. "The judge whose commission shall first expire" is frequently a judge appointed to fill a vacancy and holding a commission which will expire at the end of the next session of the senate.

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Jurisdiction of Supreme Court.

1 Section 3. The jurisdiction of the supreme court shall ex-  
2 tend over the state, and the judges thereof shall, by virtue of  
3 their offices, be justices of oyer and terminer and general jail  
4 delivery in the several counties. It shall have original jurisdic-  
5 tion in cases of injunction where a corporation is a party de-  
6 fendant, of habeas corpus, of mandamus to courts of inferior  
7 jurisdiction, and of quo warranto as to officers of the common-  
8 wealth whose jurisdiction extends over the state, but shall not

## Art. V, Sec. 4

9 exercise other original jurisdiction. The supreme court shall  
 10 have jurisdiction to review in all cases the action of other courts  
 11 and until otherwise prescribed by law the manner of exercising  
 12 such jurisdiction shall be that prescribed when this constitution  
 13 becomes effective.

## Note.

Source: Article V, section 3:

"The jurisdiction of the supreme court shall extend over the state, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to all officers of the commonwealth whose jurisdiction extends over the state, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, certiorari or writ of error in all cases, as is now or may hereafter be provided by law."

Changes in Substance: None.

Clarifying Change: Under the present constitution it is not absolutely certain that the supreme court has appellate jurisdiction in all cases. Under the section proposed the court is given the power to review, in all cases, the action of other courts.

Changes in Style: Original jurisdiction in the enumerated cases is vested in the court itself. This accords with actual practice and with the interpretation put upon the language of the present constitution by the supreme court. See *Wheeler v. Phila.*, 77 Pa. 338; *Commonwealth v. Hartranff*, 77 Pa. 154; *Clark v. Borough of Washington*, 145 Pa. 566.

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### Regulative Power and Duty of Supreme Court.

1 Section 4. The supreme court shall regulate procedure in  
 2 courts of record and shall adapt the processes of justice to the  
 3 necessities of all litigants.

4 In the discharge of these duties it may regulate forms of  
 5 action, pleading and practice, the keeping of judicial records,  
 6 and the conditions under which fees and costs may be remitted  
 7 and counsel assigned without expense to litigants.

8 Regulations, when promulgated by the chief justice, shall have  
 9 the force of law until modified by law and shall operate to repeal  
 10 laws theretofore enacted inconsistent with such regulations.

11 Subject to law and to such regulations, courts of record shall  
 12 have the power to make their own rules.

## Art. V, Secs. 5, 6

**Note.**

Source: This is entirely new matter covering two principles:

- (1) That the supreme court should regulate judicial procedure, and
- (2) That the supreme court should specially regulate judicial procedure in behalf of the poor.

The Commission recommend the embodiment of the first of these principles in the constitution because the supreme court is better fitted than the general assembly to adapt judicial procedure to changing conditions. A legislative body is not constituted for the consideration of such questions of detail as necessarily arise in connection with every kind of litigation. Accordingly the Commission have recommended a system similar to that in use in England, where it has met with success and with unusual satisfaction. It will be observed that the force of the rules of the supreme court in this respect is made equal to that of statutes but no greater.

The Commission also recommend that the supreme court should be directed to "adapt the processes of justice to the necessities of all litigants," and, in this connection, shall regulate the condition under which fees and costs may be remitted and counsel assigned without expense to litigants.

**Superior Court.**

- 1 Section 5. The superior court shall consist of seven judges
- 2 learned in the law, chosen by the electors of the commonwealth.
- 3 They shall hold office for twenty-one years and shall not again
- 4 be eligible. The judge longest in continuous service shall be
- 5 president judge.

**Note.**

Source: This is entirely new matter. The superior court is made a constitutional court. The provision in regard to the length of the term of a judge of the court, and the prohibition against re-election, are made similar to those which pertain to the judges of the supreme court.

**Jurisdiction of Superior Court.**

- 1 Section 6. Until otherwise prescribed by law, the superior
- 2 court shall have the jurisdiction vested in it when this consti-
- 3 tution becomes effective.

**Note.**

Source: This is entirely new matter, made necessary by the preceding section.

## Art. V, Secs. 7, 8

## Judicial Districts.

1 Section 7. The state shall be divided by law into judicial  
 2 districts. A county having fifty thousand inhabitants may con-  
 3 stitute a separate district. No county shall be divided in the  
 4 formation of a district and not more than four counties shall be  
 5 included in a district.

## Note.

Source: (1) Part of Article V, section 5:

"Whenever a county shall contain forty thousand inhabit-  
 ants it shall constitute a separate judicial district, and  
 shall elect one judge learned in the law; and the general  
 assembly shall provide for additional judges, as the busi-  
 ness of said districts may require. Counties containing a  
 population less than is sufficient to constitute separate dis-  
 tricts shall be formed into convenient single districts, or, if  
 necessary, may be attached to contiguous districts as the  
 general assembly may provide. \* \* \*"

(2) Part of Article V, section 4:

"\* \* \* not more than four counties shall at any time  
 be included in one judicial district organized for said  
 courts."

Changes in Substance: The present constitution requires every  
 county with a population of forty thousand to form a sepa-  
 rate district. This is changed so that a county of fifty thou-  
 sand will be permitted or obliged to become a separate dis-  
 trict, according to the judgment of the law-making power.

Changes in Style: The Commission's rules of style have been  
 followed.

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 Courts of Common Pleas.

1 Section 8. In each county there shall be a court of common  
 2 pleas consisting of one or more judges learned in the law, chosen  
 3 by the electors of the judicial district in which the county is  
 4 situated. They shall hold office for ten years. The judge long-  
 5 est in continuous service shall be the president judge. The office  
 6 of associate judge not learned in the law is abolished, but asso-  
 7 ciate judges in office when this constitution becomes effective  
 8 shall hold office for their unexpired terms.

## Note.

Source: (1) Part of Article V, section 4:

"Until otherwise directed by law, the courts of common  
 pleas shall continue as at present established, except as  
 herein changed; \* \* \*"



## Art. V, Sec. 9

## (2) Part of Article V, section 15:

"All judges required to be learned in the law, except the judges of the supreme court shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; \* \* \*."

## (3) Part of Article V, section 5:

"\* \* \* The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this constitution shall be adopted shall serve for their unexpired terms."

Changes in Substance: (1) The Commission suggest that the long-established practice in regard to the office of president judge be made part of the constitution for the sake of uniformity with the sections dealing with the other courts.

(2) The present constitution abolished the office of associate judge not learned in the law in counties forming separate districts. The Commission recommend that this office should now be abolished in the twenty counties where it still exists, saving to the present associate judges the right to serve their unexpired terms.

Clarifying Change: The proposed new section states expressly that there shall be a court of common pleas in each county. The constitution of 1776 refers to such courts (see section the twenty-fourth), and the constitution of 1790, Article V, section 4, expressly provided for such courts.

The Commission recommend the insertion of this clause for the sake of clearness, believing that the system is satisfactory and that there will be no reason for abandoning it.

Changes in Style: The words "if they shall so long behave themselves well," in Article V, section 15, of the present constitution, are omitted as unnecessary. The constitution designates the ways in which a judge may be removed from office. (See Article VII, sections 6 and 7 as proposed.) When a definite term of office for a judge or other officer is prescribed, the incumbent of the office has a right to the office until his term expires, irrespective of his behavior, unless removed in one of the ways designated in the constitution.

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### Jurisdiction of Courts of Common Pleas.

1 Section 9. The court of common pleas of each county shall  
 2 have original jurisdiction in civil cases except where such juris-  
 3 diction shall be vested by law in other courts. It shall have  
 4 power to issue writs of certiorari to justices of the peace and to  
 5 courts not of record and, except where otherwise prescribed by

## Art. V, Sec. 9

- 6 law shall have jurisdiction in appeals from justices of the peace.  
 7 It shall have the chancery jurisdiction vested in the courts of  
 8 common pleas when this constitution becomes effective.  
 9 In addition to the powers conferred in this section, and until  
 10 otherwise prescribed by law, the courts of common pleas shall  
 11 have the jurisdiction vested in them when this constitution be-  
 12 comes effective.  
 13 A judge of a court of common pleas shall be, in the county, a  
 14 justice of the peace as to criminal matters.

## Note.

Source: (1) Part of Article V, section 9:

"Judges of the courts of common pleas learned in the law  
 \* \* \* within their respective districts shall be justices of  
 the peace as to criminal matters."

(2) Article V, section 10:

"The judges of the courts of common pleas, within their  
 respective counties, shall have power to issue writs of cer-  
 tiorari to justices of the peace and other inferior courts not  
 of record, and to cause their proceedings to be brought before  
 them, and right and justice to be done."

(3) Article V, section 20:

"The several courts of common pleas, besides the powers  
 herein conferred, shall have and exercise within their re-  
 spective districts, subject to such changes as may be made by  
 law, such chancery powers as are now vested by law in the  
 several courts of common pleas of this commonwealth, or  
 as may hereafter be conferred upon them by law."

Changes in Substance: (1) All original civil jurisdiction not  
 vested by law in other courts is expressly vested in the  
 courts of common pleas.

(2) Jurisdiction in appeals from justices of the peace is  
 expressly conferred upon the courts of common pleas except  
 where otherwise prescribed by law. The present constitu-  
 tion gives to a court of common pleas the right to issue a  
 certiorari to justices of the peace and magistrates, but gives  
 to the litigant no right of appeal.

Clarifying Changes: Under the present constitution, it is not  
 clear whether chancery jurisdiction can be given to courts  
 other than the courts of common pleas and the orphans'  
 courts. An orphans' court, by its nature, which may be  
 implied from its name, may and does have chancery powers.  
 (See also *Morgan v. Reel*, 213 Pa. 81.) Article V, section 20,  
 of the present constitution, makes the chancery jurisdiction  
 of the courts of common pleas subject to such changes as  
 may be made by law. The language of the section makes it  
 probable but not certain that those courts could be deprived

## Art. V, Sec. 10

by law of all chancery jurisdiction. There is nothing in the section to prevent other courts being vested with chancery jurisdiction.

Article V, section 10, of the present constitution, gives to the judges of the courts of common pleas the power to issue writs of certiorari to justices of the peace and other inferior courts not of record. Again, there is nothing in the section to make the power vested in the courts of common pleas an exclusive power.

On the other hand, Article V, section 26, of the present constitution, provides: “\* \* \* the general assembly is hereby prohibited from creating other courts to exercise the powers vested by this constitution in the judges of the courts of common pleas and orphans’ courts.” The effect of this section is uncertain. Either it means that a power vested expressly or impliedly as an exclusive power is exclusive, or it means that any power whether it is vested as an exclusive power or not, it to be regarded as an exclusive power.

In order to avoid the uncertainty arising from section 26, we have recommended that it be omitted.

The section as proposed is so worded as to vest in the common pleas courts the chancery jurisdiction vested by law when the constitution as proposed becomes effective. The chancery jurisdiction may thereafter be increased but not diminished. The section as proposed also vests in the common pleas courts jurisdiction to issue writs of certiorari to justices of the peace and inferior courts not of record. This accords with Article V, section 10 of the present constitution. On the other hand, there will be nothing to prevent other courts being vested by law with a similar power.

Changes in Style: The Commission’s rules of style have been followed.

### Common Pleas Court in Philadelphia.

- 1 Section 10. In the county of Philadelphia the jurisdiction of
- 2 the several courts of common pleas shall be vested in one court
- 3 of common pleas. Until otherwise prescribed by law, the court
- 4 shall be composed of fifteen judges. The first judges shall be
- 5 those holding office in the several courts of common pleas when
- 6 this constitution becomes effective. The judge longest in con-
- 7 tinuous service shall be president judge.

#### Note.

Source: This is entirely new matter.

Philadelphia is the only county which does not now have a single court of common pleas. If section 8 of this article, as proposed by the Commission, is adopted, it is necessary

## Art. V, Secs. 11, 12

to specially provide, in the constitution or in a schedule adopted with the constitution, for the consolidation of the existing courts of common pleas in Philadelphia.

We believe that in Philadelphia the demand for the consolidation of the existing courts of common pleas is very general. An amendment to the present constitution effecting this consolidation has already been passed by one general assembly.

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### Criminal Courts.

1 Section 11. In each county there shall be a court of oyer and  
2 terminer and general jail delivery and a court of quarter sessions  
3 of the peace. The judges of the court of common pleas of the  
4 county shall be the judges of such courts.

#### Note.

Source: Part of Article V, section 9:

“Judges of the courts of common pleas learned in the law shall be judges of the courts of oyer and terminer, quarter sessions of the peace and general jail delivery, and of the orphans’ court, \* \* \*.”

Changes in Substance: None.

Clarifying Changes: The present constitution creates courts of oyer and terminer and general jail delivery, and courts of quarter sessions of the peace, in Article V, section 1, but fails to state in terms where those courts shall be situated. This omission is corrected by stating that there shall be such courts in each county, thus following the long-established practice.

Changes in Style: The Commission’s rules of style have been followed.

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### Orphans’ Courts.

1 Section 12. In each county there shall be an orphans’ court.  
2 In a county having more than one hundred and fifty thousand  
3 inhabitants there may be a separate orphans’ court with the  
4 jurisdiction of orphans’ courts when this constitution becomes  
5 effective and with other jurisdiction as prescribed by law. Such  
6 courts shall consist of one or more judges learned in the law,  
7 chosen by the electors of the county. They shall hold office for  
8 ten years. The judge longest in continuous service shall be presi-  
9 dent judge.  
10 In a county with a separate orphans’ court, the register of  
11 wills of the county shall be the clerk thereof. He shall appoint  
12 assistant clerks only with the approval of the court. Accounts

## Art. V, Sec. 12

13 filed with him as register or as clerk shall be audited by the  
 14 court without expense to the parties, unless the court shall ap-  
 15 point, in its discretion, an auditor nominated by all parties in  
 16 interest represented in the proceeding.

17 In a county without a separate orphans' court, the judges of  
 18 the court of common pleas shall be the judges of the orphans'  
 19 court, but only until the establishment of a separate orphans'  
 20 court.

## Note.

Source: (1) Part of Article V, section 22:

"In every county wherein the population shall exceed one hundred and fifty thousand, the general assembly shall, and in any other county may, establish a separate orphans' court, to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' courts, and thereupon the jurisdiction of the judges of the court of common pleas within such county, in orphans' court proceedings shall cease and determine. In any county in which a separate orphans' court shall be established, the register of wills shall be clerk of such court, and subject to its directions, in all matters pertaining to his office; he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint \* \* \*."

(2) Part of Article V, section 15:

"All judges required to be learned in the law, except the judges of the supreme court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well \* \* \*"

(3) Part of Article V, section 9:

"Judges of the courts of common pleas learned in the law shall be judges \* \* \* of the orphans' court \* \* \*"

Changes in Substance: (1) The present constitution requires a separate orphans' court in a county having a population of over 150,000 and permits a separate orphans' court in any county. In the proposed new section, a separate orphans' court is permitted only in a county with over 150,000 inhabitants. The Commission believe that such a court will never be necessary in a smaller county.

(2) The present constitution gave to the orphans' court the jurisdiction of the then existing register's court. The

## Art. V, Sec. 13

constitution as proposed gives to the court the jurisdiction vested in such courts by law when the constitution becomes effective.

(3) The exception to the provision that all accounts shall **be audited** by the court without expense to parties is in a case where all the parties in interest represented in the **proceedings** consent to the appointment of an auditor. Under the present constitution all the parties in interest must consent.

Clarifying Changes: (1) The principle that there should be an orphans' court in each county is to be inferred from the present constitution and is expressly stated in the proposed new section.

(2) It is assumed that in the present constitution, the words "and subject to its directions in all matters pertaining to his office," refer to the office of clerk of the orphans' court, and they have therefore been omitted as surplusage.

Changes in Style: (1) The words "if they shall so long behave themselves well," in article V, section 15, of the present constitution, are omitted because included in Article VII, section 7, as proposed. (See note to Article V, section 8.)

(2) By omitting Article V, section 26, of the present constitution, we make it clear that this section vests in the orphans' court certain jurisdiction, but does not make the jurisdiction vested exclusive. (See note to Article V, section 9.)

### Justices of the Peace Not in Philadelphia.

Section 13. Each county, except the county of Philadelphia, shall be divided by its court of common pleas into justice of the peace districts. A borough, township or city with a population of fifty thousand or less shall not be divided. A district may be composed of two or more townships or boroughs or any borough or township may be attached to a district comprising all or a portion of a city. In a city with a population of more than fifty thousand, the number of inhabitants shall be divided by fifty thousand and the number of districts to which the city shall be entitled shall be the quotient. Population shall be determined by the latest United States decennial census. After each decennial census the court of common pleas may create new districts and may change the boundaries of districts. After any such revision of the districts, no new district shall be created and no change of boundary shall be made prior to the next decennial census.

In each district one justice of the peace shall be chosen by the electors at a municipal election. He shall have been a resident of his district for two years next preceding the election unless absent on the public business of the United States, of the

## Art. V, Sec. 13

21 state government or of a municipality of the commonwealth.  
 22 He shall hold office for six years from the first Monday after  
 23 his election. Upon petition of at least two hundred electors of  
 24 the district setting forth a reasonable cause for his removal, he  
 25 shall be removed from office by the court of common pleas if the  
 26 court, after hearing, finds such cause to exist. In such event a  
 27 justice of the peace may appeal to the superior court. A vacancy  
 28 in the office of justice of the peace shall be filled by the governor.

29 For services rendered in judicial proceedings a justice of the  
 30 peace shall receive a salary prescribed by law and paid by the  
 31 county, and no other compensation. Fees, fines and penalties  
 32 received in judicial proceedings by a justice of the peace shall be  
 33 paid into the county treasury for the use of the county.

34 Until otherwise prescribed by law, justices of the peace in any  
 35 county shall have the jurisdiction and powers of the justices of  
 36 the peace of the county existing when this constitution becomes  
 37 effective.

38 Justices of the peace in office when this constitution becomes  
 39 effective shall serve their unexpired terms. On the expiration  
 40 of such terms, the office of justice of the peace as theretofore  
 41 existing is abolished. Vacancies occurring prior to the expira-  
 42 tion of such terms shall not be filled.

## Note.

Source: Article V, section 11:

"Except as otherwise provided in this constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs or townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district." (Amendment of November 2, 1909.)

Changes in Substance: (1) Instead of electing justices of the peace according to wards, boroughs or townships, they will be elected according to districts formed by the court of common pleas of the county in the manner indicated.

(2) There can be but one justice of the peace in a district, instead of two or more as under the present constitution.

(3) Two years' residence in the district immediately preceding his election is required, instead of one year. Absence on public business is not to be reckoned as a loss of residence.

## Art. V, Sec. 14

(4) The provisions for removal by the court of common pleas and for the filling of vacancies by the governor are new.

(5) The provisions in regard to salary, fees, fines and penalties, are new.

Change in Style: The substance of the provisions in regard to the time of elections has been transferred to Article VII. section 1, as proposed.

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### Justices of the Peace in Philadelphia.

1 Section 14. The county of Philadelphia shall be divided by its  
2 court of common pleas into eighteen justice of the peace dis-  
3 tricts as nearly equal in population as possible. After each  
4 United States decennial census, the court of common pleas may  
5 create new districts and may alter the boundaries of districts.  
6 After any such revision of the districts, no new district shall be  
7 created and no change of boundary shall be made prior to the  
8 next decennial census. The number of districts shall not exceed  
9 one for each one hundred thousand of population.

10 In each district of one justice of the peace learned in the law  
11 shall be chosen by the electors of the district at a municipal elec-  
12 tion. His other qualifications, his term, and the method of his  
13 removal and of filling a vacancy in his office shall be as in the  
14 case of justices of the peace in other counties. For services  
15 rendered in judicial proceedings, he shall receive a salary pre-  
16 scribed by law and paid by the county and no other compensa-  
17 tion. Fees, fines and penalties received in judicial proceedings  
18 by a justice of the peace shall be paid into the county treasury  
19 for the use of the county.

20 A justice of the peace shall hold a court not of record of police  
21 and civil causes. His jurisdiction in civil matters shall be lim-  
22 ited to matters involving three hundred dollars or less and ex-  
23 cept as otherwise provided in this section shall be similar to  
24 that of justices of the peace in other counties. No political  
25 duties shall be imposed on him.

26 Rules of procedure for the justices of the peace not incon-  
27 sistent with law or with the regulations of the supreme court  
28 shall be prescribed by the court of common pleas of the county  
29 of Philadelphia.

30 Magistrates in office when this constitution becomes effective  
31 shall serve their unexpired terms. On the expiration of such  
32 terms, the office of magistrate as theretofore existing is abolished.  
33 Vacancies occurring prior to the expiration of such terms shall  
34 not be filled.

35 The provisions of this section may be changed or abolished by  
36 law.



## Art. V, Sec. 14

## Note.

Source: (1) Article V, section 12:

"In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be six years and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; They shall be compensated only by fixed salaries to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of aldermen is abolished."—(Amendment of November 2, 1909.)

(2) Article V, section 13:

"All fees, fines and penalties in said courts shall be paid into the county treasury."

Changes in Substance: (1) Justices of the peace learned in the law are substituted for magistrates.

(2) One justice of the peace is to be elected in each of the districts formed by the court of common pleas.

(3) There is to be one justice of the peace for each one hundred thousand of population instead of a magistrate for each thirty thousand.

(4) The jurisdiction of each justice of the peace is to be similar to that of justices of the peace throughout the state, except that in civil cases it is limited to three hundred dollars. The assimilation to the situation in other counties is new.

(5) Qualifications for office, except the requirement that the incumbent shall be learned in the law, and provisions for removal and for filling vacancies are the same as in the case of justices of the peace in other counties. This is new.

(6) The court of common pleas is directed to prescribe procedure. This is new.

(7) The final paragraph permits the above system to be abolished or changed by law.

Changes in Style: The section has been entirely rewritten and the Commission's rule of style have been followed.

Art. V, Secs. 15, 16

### Judgeships to be Numbered.

1 Section 15. In every court composed of two or more judges  
2 required to be learned in the law, each judgeship shall, for the  
3 purpose of election or appointment thereto, be deemed a separate  
4 office and be distinguished by number from the other judgeships  
5 in the same court. Judgeships existing when this constitution  
6 becomes effective shall be taken to be numbered in the respective  
7 courts in the order of the seniority in commission of the judges  
8 occupying them.

### Note.

Source: This is entirely new matter. The purpose is to give to the sitting judge in large counties a greater advantage than he now has in election contests. If, for instance, the courts of common pleas of Philadelphia county are consolidated, and if four of the fifteen judges come up at one time for reelection, it will be more difficult to defeat a sitting judge contending against a limited number of other candidates than it would be if all candidates, perhaps a dozen or more, were contending together for four places. The natural tendency of the voter is to favor the sitting judge and this he will be more likely to do if the contest is plainly between that judge and aspirants for his particular office.

The Commission believe that a policy which tends to continue judges in office will promote the proper administration of justice.

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### Determining Priority.

1 Section 16. Before two or more judges of the same court  
2 begin service on the same day, they shall cast lots to determine  
3 who shall be deemed first to have begun service and shall certify  
4 the result to the governor.

### Note.

Source: Article V, section 17:

“Should any two or more judges of the supreme court, or any two or more judges of the court of common pleas for the same district, be elected at the same time, they shall, as soon after the election as convenient, cast lots for priority of commission, and certify the result to the governor, who shall issue their commissions in accordance therewith.”

Changes in Substance: The provisions are extended to cover all courts, because the question of priority may arise in any of them.

Under the present constitution the lots have to be cast when two judges are elected on the same day, although one

Art. V, Secs. 17, 18

of them is and the other is not already a member of the court. Under the wording proposed, the lots would have to be cast only when both judges begin their service on the same day.

Changes in Style: The Commission's rules of style have been followed.

### Residence of Judges.

1 Section 17. The judges of the supreme court and of the su-  
2 perior court shall reside in the state. A judge of another court  
3 or a justice of the peace shall reside in the district for which he  
4 has been elected.

#### Note.

Source: Article V, section 19:

"The judges of the supreme court, during their continuance in office, shall reside within this commonwealth; and the other judges, during their continuance in office, shall reside within the districts for which they shall be respectively elected."

Changes in Substance: A justice of the peace is required to reside within the territory over which he has jurisdiction.

Changes in Style: The Commission's rules of style have been followed.

### Compensation of Judges and of Justices of the Peace.

1 Section 18. A judge or a justice of the peace required to be  
2 learned in the law shall receive for his services an adequate sal-  
3 ary prescribed by law, and no other compensation. A judge re-  
4 quired to be learned in the law shall be paid by the state gov-  
5 ernment.

#### Note.

Source: Article V, section 18:

"The judges of the supreme court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the state. They shall receive no other compensation, fees, or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this state or any other state."

Changes in Substance: None.

Changes in Style: The prohibition against holding other offices is transferred to Article VII, section 2.

## Art. V, Secs. 19, 20

## Duties of Courts to be Judicial Only.

1 Section 19. No duties shall be imposed on a court or judge  
 2 except such as relate to the administration of justice, to the con-  
 3 duct of the business of the court, or to the conduct of elections.  
 4 After the adjournment of the first session of the general assembly  
 5 following the time when this constitution becomes effective, no  
 6 powers of appointment shall be exercised by a court or judge  
 7 except such as relate to their duties or to the management of  
 8 public law libraries, the inspection and management of prisons,  
 9 the visitation of public institutions, the condemnation of private  
 10 property, and the administration of public trusts, of public parks  
 11 or of public works. Other powers of appointment vested in a  
 12 court or judge shall be abolished or vested elsewhere by law.

## Note.

Source: (1) Article V, section 21:

"No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided. The court of nisi prius is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the supreme court shall be established."

Changes in Substance: (1) The prohibition against imposing non-judicial duties upon the judges of the supreme court is extended to all judges and also to justices of the peace in Philadelphia. Instead of using the ambiguous words of the present constitution "no duties \* \* \* except such as are judicial" and "not conferring political duties," the proposed section enumerates the duties which may be imposed. This will avoid doubt. Certain powers of appointment are expressly permitted to be exercised by the courts in cases in which the Commission believe that this method of appointment will serve the public interests. Other powers of appointment, as, for instance, the appointment of boards of revision of taxes and of boards of education, are to be abolished or vested elsewhere by law.

(2) The last sentence of Article V. section 12, of the present constitution is omitted as obsolete in so far as it concerns the court of nisi prius, and as unnecessary and unwise in so far as it concerns other courts of original jurisdiction.

Changes in Style: The section has been entirely rewritten, following the Commission's rules of style.

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 Power to Change Venue.

1 Section 20. The power to change the venue shall be vested in  
 2 the courts and exercised as prescribed by law.

## Art. V, Secs. 21, 22

## Note.

Source: Article III, section 23:

"The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Appeals to Supreme Court in Homicide Cases.

1 Section 21. A person sentenced for felonious homicide may  
2 remove the indictment, record and all proceedings to the supreme  
3 court for review.

## Note.

Source: Article V, section 24:

"In all cases of felonious homicide, and in such other criminal cases as may be provided for by law, the accused, after conviction and sentence, may remove the indictment, record and all proceedings, to the supreme court for review."

Changes in Substance: None.

Changes in Style: The reference to "such other criminal cases as may be provided for by law" has been omitted as superfluous, and the language has been changed in accordance with the Commission's rules of style.

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## Appeals From Courts Not of Record.

1 Section 22. A person summarily convicted, or a party to a  
2 suit for a penalty before a justice of the peace or in a court not  
3 of record, may appeal to a court of record in the manner pre-  
4 scribed by law.

## Note.

Source: Article V, section 14:

"In all cases of summary conviction in this commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown."

## Art. V, Sec. 23

Changes in Substance: The concluding words "upon allowance of the appellate court or judge thereof upon cause shown," have been omitted because the Commission believe that an appeal should be a matter of right in the two specified cases without requiring a special allocation from a judge.

Changes in Style: The Commission's rules of style have been followed.

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### Process and Indictments.

1 Section 23. The style of process shall be "The Commonwealth  
2 of Pennsylvania." Prosecutions shall be carried on in the name  
3 and by the authority of the commonwealth of Pennsylvania. In-  
4 dictments shall conclude "against the peace and dignity of the  
5 commonwealth of Pennsylvania."

#### Note.

Source: Article V, section 23:

"The style of all process shall be 'The Commonwealth of Pennsylvania.' All prosecutions shall be carried on in the name and by the authority of the commonwealth of Pennsylvania, and conclude 'against the peace and dignity of the same.'"

Changes in Substance: None.

Changes in Style: (1) The present constitution provides that "prosecutions shall \* \* \* conclude 'against the peace and dignity of the same.'" These words are copied from the constitutions of 1838 and of 1790. Obviously they are meaningless. What is really intended is that indictments shall so conclude. This is made clear by section the twenty-seventh of the second article of the constitution of 1776 which provides: "Section the twenty-seventh. All prosecutions shall commence in the name and by the authority of the freemen of the commonwealth of Pennsylvania; and all indictments shall conclude with these words, 'Against the peace and dignity of the same.' The style of all process hereafter in this state shall be, the commonwealth of Pennsylvania."

(2) The Commission recommend the use of the concluding words, "against the peace and dignity of the commonwealth of Pennsylvania," to conform with the actual practice. The form proposed was sustained by the Supreme Court in *Rogers v. Commonwealth*, 5 S. & R. 463 (1820).

## Art. V, Secs. 24, 25

## Trial Without Jury.

1 Section 24. If the parties to a civil case shall agree to dis-  
2 pense with a trial by jury, the court shall hear the case and  
3 shall deliver a judgment having the same effect as if there had  
4 been such trial by jury.

Note.

Source: Article V, section 27:

“The parties, by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed,

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Employment of Counsel and Graded Costs.

1 Section 25. Laws shall be enacted, applicable to courts of  
2 record and to such other courts as may be deemed proper, pro-  
3 viding that the counties shall compensate counsel assigned to  
4 serve without expense to litigants. The costs of litigation may  
5 be classified or graded by law according to the amounts in con-  
6 troversy.

Note.

Source: This is entirely new matter.

(1) The cost of compensating counsel assigned to service without expense to litigants is placed on the counties. Under the provisions of section 4 of this article, the supreme court is directed to regulate the conditions under which counsel shall be assigned without expense to litigants.

(2) The doubt as to the constitutionality of grading costs according to the amount in controversy is removed.

Art. VI, Sec. 1

## ARTICLE VI.

### SUFFRAGE AND ELECTIONS.

#### Preliminary Note.

Source: Article VIII, Suffrage and Elections.

Arrangement: The order of the subjects is as follows:

Arrangement: The order of the subjects is as follows:

Electors—sections 1 to 4, inclusive.

Bribery at elections—section 5.

Election districts and election officers—sections 6 to 8, inclusive.

Time of holding elections and charter of elections; contested elections—sections 9 to 11, inclusive.

Elections by persons in representative capacity—section 12.

That part of Article VIII of the present constitution dealing with the time of electing different kinds of public officers and with qualifications for holding public office has been transferred to Article VII, Public Servants; and the part dealing with prohibitions on special laws, to Article III, section 20.

#### Qualifications of Electors.

- 1 Section 1. A citizen of the commonwealth shall be entitled
- 2 to vote at elections who has:
- 3 1 Reached the age of twenty-one;
- 4 2 Been a citizen of the United States at least thirty days;
- 5 3 Resided in the state immediately preceding the election for
- 6 one year, or, if he is a native of the commonwealth or
- 7 has been an elector, then for six months immediately
- 8 preceding the election;
- 9 4 Resided for sixty days next preceding the election in the
- 10 election district where he shall offer to vote;
- 11 5 Complied with the law regulating the registration of elec-
- 12 tors.
- 13 The right to vote and to hold office shall not be denied on ac-
- 14 count of race, color or sex.

#### Note.

Source: Article VIII, section 1:

"Every male citizen of twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject however to such laws requiring and regu-



## Art. VI, Sec. 2

lating the registration of electors as the general assembly may enact:

1 He shall have been a citizen of the United States at least one month.

2 He shall have resided in the state one year (or, having previously been a qualified elector or native born citizen of the state, he shall have removed therefrom and returned, then six months), immediately preceding the election.

3 He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

4 If twenty-one years of age and upwards, he shall have paid within two years a state or county tax, which shall have been assessed at least two months and paid at least one month before the election." (Amendment of November 5, 1901.)

Changes in Substance: (1) The right of suffrage is conferred on women.

(Though the pronoun "he" is retained throughout this proposed constitution, the masculine form includes the feminine. See proposed concluding section.)

(2) The qualification that a tax shall have been paid is abolished.

The payment of a poll tax does not indicate that the payer has a property stake in the community; and even if it did, the Commission do not believe in a property qualification for the exercise of the right of suffrage.

Changes in Style: (1) Placing the qualifications of attainment of twenty-one years and of compliance with the registration laws with the other qualifications.

(2) Clause 2 has been re-worded so as to avoid the necessity of using parentheses.

### Residence of Electors.

1 Section 2. For the purpose of voting no person shall be  
2 deemed to have gained a residence by reason of his presence or  
3 to have lost it by reason of his absence while in the service of the  
4 United States, of the state government or of a municipality of  
5 the commonwealth, or while navigating the waters of the United  
6 States or the high seas, or while a student of an institution of  
7 learning, or while kept in an institution at public expense, or  
8 while confined in prison.

Note.

Source: Article VIII, section 13:

"For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service.

## Art. VI, Sec. 3

either civil or military, of this state or of the United States, nor while engaged in the navigation of the waters of the state or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison."

Changes in Substance: None.

Clarifying Change: In the present constitution it is not clear whether a person absent on the business of a municipality is absent on the business of "this state." The section as suggested provides that a person so absent would not gain or lose a residence.

Changes in Style: The words "waters of the state" are omitted. John F. Lewis, Esq., of the Philadelphia bar, a recognized authority on admiralty law, in response to a request for an opinion on the question whether there are navigable waters of the state as distinguished from navigable waters of the United States has written the following letter to the Commission:

"The words, 'of the state' in the clause, 'engaged in the navigation of the waters of the State or of the United States' of section 13, Article 8 of the present Constitution of Pennsylvania, are evidently a relic from the time when the jurisdiction of the Admiralty Courts was limited to tidal waters. The *Genessee Chief*, 12 Howard, 463, which was followed by *The Eagle*, 8 Wallace, 15, repudiated the tidal test of jurisdiction, and held that the true criterion was whether the water was navigable. Hence, every navigable water of Pennsylvania is subject to the jurisdiction of the United States Admiralty, and can be truthfully said to be a 'water of the United States.'

"It was reasonable that under the old limits the constitution should provide that for the purpose of voting, no person should be deemed to have lost his residence by reason of his absence while engaged in navigation, because the reason which was contemplated was a long voyage, but while the jurisdiction of the United States Courts in Admiralty does not extend over an inland lake entirely within the body of a state and in no way connected with the possibility of navigation outside the state, yet there are no such waters in Pennsylvania, and hence there is no present reason for retaining the words 'of the state.'

"I think the words 'of the state' could be safely omitted by the Commission."

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### Voting in Military or Naval Service.

- 1 Section 3. When an elector shall be absent in the military
- 2 or naval service of the commonwealth or of the United States
- 3 under a requisition by the president, he may vote as if he were

## Art. VI, Sec. 4

4 present in his place of residence, subject to regulations pre-  
5 scribed by law.

Note.

Source: Article VIII, section 6:

“Whenever any of the qualified electors of this commonwealth shall be in actual military service, under a requisition from the president of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.”

Changes in Substance: None.

Clarifying Changes: (1) The expressions “in actual military service,” have been changed to read: “absent in military service” so as to make it clear that a person in military service and not absent from his place of voting is not included.

(2) The expression “military service \* \* \* by the authority of this commonwealth” has been changed to read: “military or naval service of the commonwealth.” so as to make it clear that a person serving in a foreign army in consequence of a resolution of the general assembly approving such service, is not absent on the kind of military service contemplated, and also to make it clear that a person absent on naval service may vote as if he were present in his place of residence.

Changes in Style: The Commission’s rules of style have been followed,

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### Privileges of Electors.

1 Section 4. Electors shall, except in cases of treason, felony  
2 and breach or surety of the peace, be privileged from arrest dur-  
3 ing their attendance on elections, and in going to and returning  
4 from them.

Note.

Source: Article VIII, section 5:

“Electors shall in all cases except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.”

Changes in Substance: None.

Changes in Style: The concluding words in Article VIII, section 5, of the present constitution, “in going to and returning therefrom,” are, of course, incorrect. They have been changed to read as in Article III, section 3, of the constitutions of 1790 and 1838.

## Art. VI, Sec. 5

## Election Offenses.

1 Section 5. A person who shall give, or promise or offer to  
2 give a valuable consideration or reward for a vote at an election  
3 or for the withholding thereof, or who shall receive or agree to  
4 receive, for himself or for another, a valuable consideration or  
5 reward for a vote at an election or for the withholding thereof,  
6 shall forfeit the right to vote at such election. An elector whose  
7 right to vote shall be challenged for such cause before the elec-  
8 tion officers shall be required to swear or affirm that the subject  
9 matter of the challenge is untrue before his vote shall be received.

10 A person convicted of wilful violation of an election law shall,  
11 in addition to the penalties prescribed by law, lose for four years  
12 the right to vote.

13 In a trial of a contested election and in an investigation of  
14 elections, no testimony shall be withheld on the ground that it  
15 may criminate the witness or subject him to infamy. Such  
16 testimony shall not afterwards be used against him in a judicial  
17 proceeding except in a prosecution for perjury in giving such  
18 testimony.

## Note.

Source: The section combines all provisions of the present constitution relating to the violation by an elector of the election law and the consequences of such violation; namely:

## (1) Article VIII, section 8:

"Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such electors' vote or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received."

## (2) Part of Article VIII, section 9:

"\* \* \* and any person convicted of willful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years."

## (3) Article VIII, section 10:

"In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such

## Art. VI, Secs. 6, 7

testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed,

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### Election Districts.

- 1' Section 6. Townships and wards of cities or boroughs shall  
 2 form or shall be divided into election districts of compact and  
 3 contiguous territory as the court of quarter sessions may direct.  
 4 An election district in a city of over one hundred thousand  
 5 inhabitants shall be divided by the court of quarter sessions when  
 6 at the next preceding election more than two hundred and fifty  
 7 votes have been polled therein. Any other election district shall  
 8 be divided when the court of quarter sessions shall be of opinion  
 9 that the convenience of the electors and the public interests will  
 10 be promoted thereby.

#### Note.

Source: Article VIII, section 11:

"Townships, and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct; but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions, having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby."

Changes in Substance: None.

Changes in Style: In the present constitution this section consists of one sentence. It relates, however, to two quite distinct subjects; one, the power and duty of the court of quarter sessions to divide townships and wards of cities and boroughs into election districts; and the other, the duty to divide an election district under certain specified conditions.

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### Election Officers.

- 1 Section 7. In each election district there shall be an election  
 2 board consisting of a judge and two inspectors chosen by the  
 3 electors of the district. They shall hold office for two years.

## Art. VI, Sec. 7

4 Each elector may vote for one candidate for judge and for one  
5 candidate for inspector. Vacancies in election boards shall be  
6 be filled and election boards in new districts shall be created as  
7 prescribed by law. Each inspector shall appoint one clerk at  
8 each election. An election officer or clerk shall be privileged  
9 from arrest upon days of election and while engaged in making  
10 up and transmitting returns, except upon warrant of a court of  
11 record or of a judge thereof for election fraud, for felony, or  
12 for wanton breach of the peace. In a city he shall be exempt  
13 from jury duty.

## Note.

Source: Article VIII, section 14:

“District election boards shall consist of a judge and two inspectors, who shall be chosen annually by the citizens. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.

Changes in Substance: None.

Clarifying Amendment: As proposed the election boards will be chosen biennially (at the municipal elections. See Article VII, section 1) instead of annually. At the present time the practice is to elect the members of election boards biennially. In spite of the wording of this section in the present constitution, the practice may be justified. Article XII, section 1 of the present constitution (Amendment of November 2, 1909), provides that “elections of local officers shall be held on a municipal election day.” Article VIII, section 3, of the present constitution (Amendment of November 4, 1903), speaks of the municipal election day as “in each odd-numbered year,” and the schedule to the amendments of 1909 provides: “After the year 1910, \* \* \* all terms of \* \* \* election division officers shall begin on the first Monday of December in an odd-numbered year.”

Changes in Style: Beginning the section with the declaration that “In each election district there shall be an election board” makes the style of the section conform to that of Article V, section 8 and other sections in which provision is made for certain officers in each district.

## Art. VI, Sec. 8

## Overseers of Elections.

1 Section 8. The courts of common pleas shall appoint two per-  
 2 sons of different political parties, qualified to serve on an elec-  
 3 tion board, to be overseers of election in a district on petition of  
 4 five electors of the county setting forth that such appointment is  
 5 a reasonable precaution to secure the purity and fairness of the  
 6 election. All the judges of the court able to act at the time shall  
 7 concur in the appointment.

8 The overseers of election, if they shall agree, shall decide any  
 9 question with respect to the conduct of the election on which the  
 10 members of the election board shall differ.

## Note.

Source: Article VIII, section 16:

"The courts of common pleas of the several counties of the commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required; such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each case members of different political parties; whenever the members of an election board shall differ in opinion the overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all the law judges of the proper court, able to act at the time, shall concur in the appointments made."

Changes in Substance: (1) The petitioners and overseers are not required to be residents of the district, because conditions may make this impossible even though the appointment of overseers may be urgently necessary.

(2) The petitioners must be "electors." In Article VIII, section 16, of the present constitution, the petitioners must be "citizens."

Clarifying Changes: Under the wording of the corresponding section in the present constitution, it is uncertain whether the court can only appoint overseers on the petition of five citizens, or whether the court can also appoint on its own motion. The wording suggested adopts the first of these alternatives.

Changes in Style: The Commission's rules of style have been followed.

Art. VI, Secs. 9, 10

### Time of Holding Elections.

1 Section 9. The general election shall be held in each even-  
 2 numbered year and the municipal election shall be held in each  
 3 odd-numbered year. Each shall be held on the Tuesday next fol-  
 4 lowing the first Monday in November unless, with the consent of  
 5 two-thirds of the members of each house of the general assembly,  
 6 a different day shall be prescribed by law.

#### Note.

Source: (1) Article VIII, section 2 (Amendment of November 2, 1909):

"The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto: Provided, That such election shall always be held in an even-numbered year."

(2) Part of Article VIII, section 3:

"\* \* \* All elections for" (certain offices enumerated) "shall be held on the municipal election day; namely, the Tuesday next following the first Monday of November in each odd-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto: Provided, That such elections shall always be held in an odd-numbered year. \* \* \*"

(See Article VII, section 1, *infra*, for the offices filled at a general and the offices filled at a municipal election.)

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

### Secrecy in Voting.

1 Section 10. Elections by the citizens shall be by ballot or by  
 2 other methods as prescribed by law. Whatever the method  
 3 adopted, secrecy in voting shall be preserved.

#### Note.

Source: Article VIII, section 4, which reads as follows:

"All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: Provided, That secrecy in voting be preserved." (Amendment of Nov. 5, 1901.)

Changes in Substance: None.



## Art. VI, Sec. 11

Clarifying Change: The wording suggested makes it certain that secrecy in voting shall be preserved when the method of voting is by ballot. The constitutions of 1790 and 1838 required all elections to be by ballot. Secrecy in the voting was not specifically provided for. In the present constitution the voting can be by ballot or by such other method as may be prescribed by law. The concluding words of the section in the present constitution—"provided that secrecy in voting be preserved"—requires that secret voting be preserved when another method of voting than by ballot is adopted. It may also require secrecy when the method of voting by ballot is used. This, however, is only an inference.

Changes in Style: The Commission's rules of style have been followed.

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### Trial of Contested Elections.

1 Section 11. The courts shall determine in the first instance  
 2 contested elections of members of the general assembly, of gover-  
 3 nor, and of lieutenant-governor. They shall finally determine all  
 4 other contested elections. Laws shall be enacted designating the  
 5 courts and judges by whom the several classes of election con-  
 6 tests shall be tried, and regulating the manner of trial and mat-  
 7 ters incident thereto. No law assigning jurisdiction, or regulat-  
 8 ing its exercise, shall apply to a contest arising out of an election  
 9 held before its enactment.

#### Note.

Source: Article VIII, section 17:

"The trial and determination of contested elections of electors of president and vice president, members of the general assembly, and of all public officers, whether state, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof; the general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage."

Changes in Substance: None.

Clarifying Changes: There is apparently a direct conflict in the present constitution between the provisions of this section and those of Article 11, section 9, which provides: "Each house \* \* \* shall judge of the election and qualifications of its members." The conflict was referred to in the debates of the constitutional convention of 1873. Mr. D. N. White said: "I hope this simple statement of the case that

## Art. VI, Sec. 12

it is in contradiction to what we have already fixed in the constitution will be sufficient to insure its being voted down." (Constitutional Debates, Vol. V, page 64.) It was not voted down, however, and when it came before the convention at a later date no reference was made to its contradiction with other provisions of the constitution. There is also apparently a direct conflict between the provisions of this section and those of Article IV, section 2, of the present constitution, which provides that contested elections of governor and lieutenant-governor shall be determined by a committee selected from both houses of the general assembly. (Article IV, section 17, of the present constitution, provides that the chief justice of the supreme court shall preside at the trial.) In the contested election of McNeill, 111 Pa. 235, the Supreme Court held that Article VIII, section 17, of the present constitution, did not take from each house the power given by Article II, section 9, to judge of the election and qualification of its members, and that the purpose of Article VIII, section 17, is merely to provide a method for procuring and presenting to the respective house the evidence and information necessary for an intelligent decision, and to secure early action.

The provisions of the section proposed do away with these apparent conflicts in the present constitution and follow the established practice as sanctioned by the Supreme Court in the contested election of McNeill.

Changes in Style: The Commission's rules of style have been followed.

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### Elections by Representative Bodies.

- 1 Section 12. Elections by representative bodies shall be viva
- 2 voce.

Note.

Source: Article VIII, section 12:

"All elections by persons in a representative capacity shall be viva voce."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

Art. VII, Sec. 1

## ARTICLE VII.

## PUBLIC SERVANTS.

## Preliminary Note.

Source: This article covers the subjects in the present constitution treated under Article VI, Impeachment and Removal from Office; Article VII, Oath of Office; Article XII, Public Officers; as well as those parts of other articles containing general rules applicable to all or to a class of public servants.

Many of the provisions relating to these subjects are scattered throughout the constitution, as, for instance, the provisions in regard to incompatible offices, disqualifications from holding office, and removal of officers in other ways than impeachment. It is not necessary to emphasize the convenience and greater certainty resulting from bringing together in one article all the provisions relating to these subjects.

Title: The title "Public Servants" has been adopted because the subject matter of some of the sections in the article includes employes as well as officers.

Arrangement: The order of subjects is as follows:

Times of election—section 1.

Incompatible officers and disqualification from holding office—sections 2 and 3.

Oath of office—section 4.

Term and salary—section 5.

Impeachment and removal—sections 6 and 7.

Appointments and promotions—section 8.

Bribery—section 9.

## Times of Elections.

1 Section 1. Judges elected by the electors of the commonwealth  
2 at large may be elected at general or municipal elections as pre-  
3 scribed by law.

4 Other officers elected by the electors of the commonwealth at  
5 large shall be elected at general elections.

6 Officers not elected by the electors of the commonwealth at  
7 large shall be elected at municipal elections.

8 Special election days to fill unexpired terms may be prescribed  
9 by law.

## Art. VII, Sec. 2

## Note.

Source: (1) Part of Article VIII, section 3:

"All judges elected by the electors of the state at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward, borough, and township officers, for regular terms of service, shall be held on the municipal election day; \* \* \*"  
(Amendment of November 4, 1913.)

(2) Part of Article XII, section 1:

"\* \* \* elections of state officers shall be held on a general election day and elections of local officers shall be held on a municipal election day, except when, in either case, special elections may be required to fill unexpired terms."  
(Amendment of November 2, 1909.)

Changes in Substance: None.

Clarifying Changes: In the present constitution there is a conflict between the provisions of Article XII, section 1, for the election of "state officers" at general elections, and the provisions of Article VIII, section 3, for the election of "judges" at municipal elections. The language of the section proposed permits the election of judges elected by the electors of the commonwealth at large on either a municipal or a general election day.

Changes in Style: The Commission's rules of style have been followed.

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### Incompatible Offices.

1 Section 2. No person shall be a member of the general as-  
2 sembly or shall hold under the state government or under a  
3 municipality an office or place of trust or profit in respect of  
4 which he shall receive compensation, if he is a member of the  
5 congress or if he holds under the United States an office or place  
6 of trust or profit in respect of which he shall receive compensa-  
7 tion.

8 No person who holds the office of governor or, except as ex-  
9 pressly provided in this constitution, of lieutenant-governor  
10 shall hold under the state government or under a municipality  
11 another office of trust or profit.

12 No person who holds under the state government the office of  
13 judge learned in the law shall hold under a municipality an of-  
14 fice or place of trust or profit in respect of which he shall receive  
15 compensation.

16 No member of the general assembly shall, during the term for  
17 which he has been elected, hold under the state government or  
18 under a municipality an appointive office or place of trust or  
19 profit.

## Art. VII, Sec. 2

20 The office of attorney-at-law and office in the militia shall not  
 21 be deemed an office or place of trust or profit within the meaning  
 22 of this section.

23 Laws may be enacted declaring what other offices or places of  
 24 trust or profit are incompatible with each other or with mem-  
 25 bership in the general assembly.

Source: The first paragraph covers that part of Article XI, section 2, of the present constitution which provides:

“No member of congress from this state, or any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this state to which a salary, fees or perquisites shall be attached. \* \* \*”

and also that part of Article IV, section 6 of the present constitution which provides:

“No member of congress or person holding any office under the United States or this state shall exercise the office of governor or lieutenant-governor.”

and also that part of Article II, section 6, which provides:

“\* \* \* No member of congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this commonwealth shall be a member of either house during his continuance in office.”

and also that part of Article V, section 18, which provides:

“The justices of the supreme court, the judges of the superior court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, \* \* \* shall receive no other compensation \* \* \* nor hold any other office of profit under the United States, this state or any other state.”

The second paragraph covers that part of Article IV, section 6, of the present constitution which provides:

“No \* \* \* person holding any office under \* \* \* this state shall exercise the office of governor or lieutenant-governor.”

The third paragraph covers that part of Article V, section 18, which provides:

“No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the government \* \* \* of this state, or of any city, or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the state. \* \* \*”

## Art. VII, Sec. 3

The fourth paragraph covers that part of Article II, section 6, of the present constitution which provides:

"No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth. \* \* \*"

The fifth paragraph covers that part of Article II, section 6 of the present constitution which provides:

"No \* \* \* person holding any office (except of attorney-at-law or in the militia) under the United States or this commonwealth shall be a member of either house during his continuance in office."

The sixth paragraph covers that part of Article XI, section 2, of the present constitution which provides:

"\* \* \* The general assembly may by law declare what offices are incompatible."

Changes in Substance: (1) The governor or lieutenant-governor may hold an office of trust or profit to which no compensation is attached under the United States or the state government or under a municipality.

(2) The provisions of the present constitution (Article VIII, section 15), in respect to election officers, are omitted.

Clarifying Changes: (1) It is not clear, under Article II, section 6, of the present constitution, what is the exact meaning of "civil office under this commonwealth," to which members of the general assembly cannot be appointed. Is every public office except a military office a "civil office," or are executive offices, only, "civil offices"? Does "commonwealth" mean state government, or does it include both state and municipal governments?

The section as proposed prevents a member of the general assembly, during the term for which he was elected, from "holding any office or place of trust or profit under the state or a municipal government."

(2) It is made clear that the office of attorney-at-law or an office in the militia is not an office of trust or profit within the meaning of the section.

Changes in Style: The Commission's rules of style have been followed.

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### Disqualifications From Holding Office.

- 1 Section 3. No person shall be a member of the general as-
- 2 sembly or shall hold, under the state government or under a
- 3 municipality, an office or place of trust or profit if he has
- 4 (a) Been convicted of embezzlement of public money, of
- 5 bribery, of attempted bribery, of perjury or other in-

## Art. VII, Sec. 3

- 6 famous crime, or of fraud in connection with an election  
 7 while a candidate for office or of wilful violation of an  
 8 election law while a candidate for office;  
 10 (b) Been convicted of having within five years, being a member  
 11 of the general assembly or an officer of the state govern-  
 12 ment, used the money of the state government for an  
 13 unauthorized purpose or made a profit therefrom;  
 14 (c) Been convicted upon impeachment;  
 15 (d) Served as an election officer at the election at which such  
 16 position of member of the general assembly or office or  
 17 place of trust or profit was filled, except in the case of  
 18 such municipal offices, other than county or city offices,  
 19 as may be prescribed by law.

## Note.

Source: Clause (a) includes (1) Article II, section 7, which provides:

"No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime shall be eligible to the general assembly or capable of holding any office of trust or profit in this commonwealth."

Also (2) that part of Article III, section 32, which provides:

"\* \* \* any person convicted of either of the offenses aforesaid" (i. e., bribery or corrupt solicitation) "shall, as part of the punishment therefor, be disqualified from holding any office or position of honor, trust or profit in this commonwealth."

And (3) that part of Article VIII, section 9, which provides:

"Any person who shall, while a candidate for office, be guilty of bribery, fraud or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this commonwealth: and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years."

This specifically disqualifies a person from holding public office who has been guilty of bribery and is a duplication of Article II, section 7, of the present constitution, which has been transferred to this clause.

Clause (b) includes that part of Article IX, section 14, which provides:

"The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the state, or member or officer of the general assembly \* \* \* but part of such punishment shall be disqualification to hold office for a period of not less than five years."

## Art. VII, Sec. 3

Clause (c) includes (1) that part of Article VI, section 3, which provides:

"\* \* \* but judgment in such cases" (cases of impeachment) "shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth. \* \* \*"

The wording of the clause as herein suggested would make it certain that conviction on impeachment of its own force disqualifies a person impeached, convicted and removed from office from thereafter holding any office of trust or profit. (See Recommendations of Change in Substance [1], *infra*.)

The clause also covers (2) that part of Article VII, section 1, which provides:

"\* \* \* any person" (i. e., a member of the general assembly, officers of the state government and county officers) "who shall be convicted of having \* \* \* violated said oath or affirmation" (oath of office) "shall be \* \* \* forever disqualified from holding any office of trust or profit within this commonwealth. \* \* \*"

We are of the opinion that no officer can be convicted of having violated his oath of office except by the process of impeachment. In other words, that there is no common law crime of "violation of oath of office" for which a person can be indicted and convicted, and therefore that the part of Article VII, section 1 of the present constitution, quoted is a duplication of the provisions of Article VI, section 3, of the present constitution which, as here explained, are covered by clause (c), as proposed.

Indeed, the provisions, in the present constitution, of Article VII, section 1, in respect to disqualifications, are not as wide as those in Article VI, section 3. Under Article VI, section 3, of the present constitution, a municipal officer may be impeached and convicted and if so impeached and convicted, is disqualified from holding any office of trust or profit. Under Article VII, section 1, only members of the general assembly, state officers and county officers, being impeached and convicted, are disqualified from holding any place of trust or profit.

Clause (d) includes that part of Article VIII, section 15, which provides:

"\* \* \* nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law."

(For explanation of wording of clause [d], see Clarifying Amendments [3].)



## Art. VII, Sec. 4

Changes in Substance: None.

Clarifying Changes: (1) In the present constitution, the wording of Article VI, section 3, leaves it uncertain whether conviction on impeachment and removal from office necessarily include disqualification from thereafter holding office. In clause (c), as proposed, conviction on impeachment carries with it this disqualification.

(2) In Article VI, section 3, of the present constitution, it is provided that the disqualification extends to holding an office of trust or profit "under this commonwealth." This leaves it uncertain whether a municipal office is an "office under the commonwealth." The same uncertainty exists in Article II, section 7, in Article III, section 32, in Article VI, section 1, and in Article VIII, section 9, of the present constitution. The wording of the section as proposed will make it certain that the disqualification extends to a municipal office as well as to an office under the state government.

(3) Article VIII, section 15, of the present constitution, provides that an election officer is not eligible to any "civil office" to be filled at an election at which he shall serve. Though, throughout the present constitution, the word "office" or the words "civil office" usually do not include a member of the general assembly, we believe that the intent of the drafters of Article VIII, section 15, as it appears in the present constitution, was to prevent an election officer being elected to the general assembly. This is not certain, however. Clause (d) as proposed makes it certain that a person who serves as an election officer is ineligible to a seat in the general assembly.

Changes in Style: The Commissions rules of style have been followed.

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Official Oath.

1 Section 4. Members of the general assembly, officers of the  
2 state government and county officers shall, before entering on  
3 the duties of their offices, take and subscribe the following oath  
4 or affirmation: "I do solemnly swear (or affirm) that I will sup-  
5 port, obey and defend the constitution of the United States and  
6 the constitution of the commonwealth; and that I will discharge  
7 the duties of my office with fidelity."

8 The foregoing shall be administered by a person authorized  
9 to administer oaths. In the case of judges of the supreme court  
10 and of the superior court and of executive officers of the state  
11 government, the oath shall be filed in the office of the secretary  
12 of the commonwealth. In the case of other judicial officers and  
13 of county officers, the oath shall be filed in the office of the pro-

## Art. VII, Sec. 4

14 thonotary of the county in which it is taken. A person refusing  
15 to take such oath or affirmation shall forfeit his office. A person  
16 who shall be convicted of having sworn or affirmed falsely, or  
17 of having violated such oath or affirmation, shall be guilty of  
18 perjury, and shall be forever disqualified from holding any office  
19 of trust or profit in the commonwealth. The oath shall be ad-  
20 ministered to a member of the general assembly by a judge of  
21 the supreme court or of a court of common pleas, in the hall of  
22 the house to which the affiant has been elected.

## Note.

Source: Article VII, section 1:

“Senators and representatives and all judicial state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: ‘I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States and the constitution of this commonwealth; and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law.’”

“The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of state offices and judges of the supreme court, shall be filed in the office of the secretary of the commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this commonwealth. The oath to the members of the senate and house of representatives shall be administered by one of the judges of the supreme court or of a court of common pleas, learned in the law, in the hall of the house to which the members shall be elected.”

Changes in Substance: (1) That part of the oath in the present constitution which requires the person to expressly state that he has not committed the crime of bribery to procure his appointment or election, or violated any election law is

## Art. VII, Sec. 5

omitted. The Commission believe that the person who would commit these crimes would not hesitate to swear that he had not done so, and they also believe that the recital of these omitted provisions at present greatly detract from the solemnity and dignity of every occasion on which the oath of office is administered.

(2) The oaths of judges of the supreme court are required to be filed in the office of the secretary of the commonwealth and not, as at present, in the office of the prothonotary of the county in which it is taken, and the oaths of the judges of the superior court are also required to be filed in the office of the secretary of the commonwealth.

Changes in Style: The Commission's rules of style have been followed.

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### Extension of Term and Change of Compensation.

1 Section 5. The term of a public officer shall not be extended  
 2 and his compensation shall not be increased or decreased after  
 3 his election or appointment except that the compensation of a  
 4 judge required to be learned in the law may be increased.

#### Note.

Source: Article III, section 13:

"No law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment."

Changes in Substance: The provision that a judge's salary may be increased but not diminished is new. Under the present constitution (Article III, section 13.) the salary of public officers can be neither increased nor diminished during his term. This has been held not to apply to judges (*Commonwealth vs. Cathues*, 210 Pa. 372). The Commission believe that a judge's salary should not be diminished but that it should be possible to increase it, because a judge serves for a longer term than other public officers. As proposed by the Commission and in the present constitution, the terms of supreme court judges are twenty-one years, and of common pleas judges, ten years. The terms of superior court judges, as proposed, are twenty-one years. The recent great increase in the cost of living demonstrates the desirability of permitting the general assembly to apply an increase in the salaries of long-term offices to a present incumbent.

Changes in Style: The Commission's rules of style have been followed.

## Art. VII, Sec. 6

## Impeachment.

1 Section 6. All officers of the state government shall be liable  
2 to impeachment for a misdemeanor in office. The power of im-  
3 peachment shall be vested in the house of representatives. An  
4 impeachment shall be tried by the senate after each senator has  
5 been put on special oath or affirmation. The person impeached  
6 can be convicted only with the consent of two-thirds of the  
7 senators present. Such conviction shall operate to remove from  
8 office the person convicted and to disqualify him from holding a  
9 public office or place of trust or profit, but shall extend no  
10 further. The person impeached, whether acquitted or convicted,  
11 may be liable to indictment, trial, judgment and punishment as  
12 prescribed by law.

## Note.

Source: (1) Article VI, section 1:

"The house of representatives shall have the sole power of impeachment."

(2) Article VI, section 2:

"All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present."

(3) Article VI, section 3:

"The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law."

Changes in Substance: None.

Clarifying Changes: (1) In Article VI, section 3, of the present Constitution it is provided that all "civil officers" shall be liable to impeachment. It is uncertain whether "civil officers" include members of the general assembly, or the officers of a municipality. In the wording proposed, it is made certain that judges are and that municipal officers are not liable to impeachment by the house of representatives.

(2) Article VI, section 3 of the present constitution provides "but judgment in such cases shall not extend further than to removal from office." This leaves it uncertain whether conviction, of itself, removes from office. Under the wording proposed, it would be certain that conviction operated as a removal from office.

Changes in Style: The Commission's rules of style have been followed.

## Art. VII, Sec. 7

## Removal Otherwise Than by Impeachment.

1 Section 7. An officer who shall be convicted of an infamous  
2 crime or of a crime the commission of which involves the viola-  
3 tion of an obligation imposed on him as an officer, shall thereby  
4 forfeit his office and shall be otherwise punished as prescribed  
5 by law.

6 Appointed officers, other than judges of courts of record, may  
8 be removed at the pleasure of the appointing power.

9 Elected officers of the state government, except the governor,  
10 the lieutenant-governor, and judges of the courts of record, shall  
11 be removed by the governor for reasonable cause, after due notice  
12 and full hearing, on the address of two-thirds of the senate.

13 Judges of courts of record, other than the judges of the su-  
14 preme and superior courts, may be removed by the governor for  
15 reasonable cause after due notice and full hearing on the ad-  
16 dress of two-thirds of each house of the general assembly.

## Note.

Source: (1) Part of Article V, section 15:

“All judges required to be learned in the law, except the judges of the supreme court \* \* \* for any reasonable cause, which shall not be sufficient ground for impeachment, the governor may remove any of them on the address of two-thirds of each house of the general assembly.”

(2) Part of Article VI, section 4:

“All officers \* \* \* shall be removed on conviction of misbehavior in office, or of any infamous crime. Appointed officers, other than judges of the courts of record and the superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except governor, lieutenant-governor, members of the general assembly and judges of the courts of record learned in the law, shall be removed by the governor for reasonable cause, after due notice and full hearing on the address of two-thirds of the senate.”

Changes in Substance: None.

Clarifying Changes: The expression in the present constitution (Article VI, section 4), “conviction of misbehavior in office,” is without meaning. There is no such crime as “misbehavior in office,” either at common law or by statute. The wording of the first paragraph of the section as proposed probably expresses the meaning intended in the present constitution.

Changes in Style: The Commission’s rules of style have been followed.

## Art. VII, Secs. 8, 9

**Appointments and Promotions.**

1 Section 8. Appointments and promotions in the civil service  
2 of the state government and of municipalities shall be accord-  
3 ing to merit and fitness to be ascertained, so far as practicable,  
4 by competitive examination.

**Note.**

Source: The section is entirely new. The Commission believes  
that the principle expressed is of such fundamental import-  
ance that it should find a place in the constitution.

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**Bribery.**

1 Section 9. A member of the general assembly, or an officer  
2 or employe of the state government or of a municipality, who  
3 shall receive or agree to offer or receive for himself or for an-  
4 other any money, office, appointment, employment, testimonial,  
5 reward, thing of value or enjoyment, or of personal advantage or  
6 promise thereof to influence the performance of a public duty,  
7 or a person who shall give or promise or offer to give any money,  
8 or thing of value, testimonial, privilege, or personal advantage  
9 to a member of the general assembly or to an officer or employe  
10 of the state government or of a municipality, to influence him  
11 in the performance of a public duty, shall be guilty of bribery,  
12 and shall be punished as prescribed by law.

13 In a prosecution for bribery or attempted bribery, or in an  
14 investigation thereof, no witness except the accused shall be  
15 permitted to withhold his testimony on the ground that it may  
16 criminate him or subject him to infamy. Such testimony shall  
17 not afterwards be used against the witness in a judicial proceed-  
18 ing except in a prosecution for perjury in giving such testimony.

Source: (1) Article III, section 29:

“A member of the general assembly who shall solicit, de-  
mand, or receive, or consent to receive, directly or indirectly,  
for himself or for another, from any company, corporation,  
or person, any money, office, appointment, employment, testi-  
monial, reward, thing of value or enjoyment, or of personal  
advantage, or promise thereof, for his vote or official in-  
fluence, or for withholding the same, or with an understand-  
ing, expressed or implied, that his vote or official action  
shall be in any way influenced thereby, or who shall solicit  
or demand any such money or other advantage, matter or  
thing aforesaid for another, as the consideration of his vote  
or official influence, or for withholding the same, or shall  
give or withhold his vote or influence in consideration of the  
payment or promise of such money, advantage, matter or  
thing, to another, shall be held guilty of bribery within the

## Art. VII, Sec. 9

meaning of this constitution, and shall incur the disabilities provided thereby for said offense, and such additional punishment as is or shall be provided by law."

## (2) Article III, section 30:

"Any person who shall, directly or indirectly, offer, give, or promise, any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer, or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery and be punished in such manner as shall be provided by law.

## (3) Article III, section 31:

"The offense of corrupt solicitation of members of the general assembly or of public officers of the state or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law and shall be punished by fine and imprisonment.

## (4) Part of Article III, section 32:

"Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony. \* \* \*"

**Changes in Substance:** The present constitution covers corrupt behavior of a member of the general assembly (Article III, section 29), and the corrupt behavior of any person who bribes or tries to bribe "any executive or judicial officer or member of the general assembly" (Section 30). It fails to cover the corrupt behavior of "officers of the state government or of a municipality." The section as proposed corrects this omission and also covers bribery of employes as well as of officers.

**Clarifying Changes:** The provision in Article III, section 32 of the present constitution that "any person may be compelled to testify \* \* \* against any person" in a bribery case has been assumed to refer only to witnesses other than the accused. The common-law principle that no man can be compelled to give evidence which will criminate him is in force in Pennsylvania and is embodied in the Act of May 23, 1887, P. L. 158. So far as an accused person is concerned, it has been expressed in the bill of rights, Article I. sec-

## Art. VIII, Sec. 1

tion 9, which provides that "in all criminal prosecutions the accused \* \* \* cannot be compelled to give evidence against himself." So far as mere witnesses are concerned, there are two exceptions to the general rule; one in bribery cases, Article III, section 32, of the present constitution, included in this section, and the other in election cases, Article VIII, section 10, of the present constitution, Article VI, section 5, as proposed. The Commission have assumed that the exception with respect to bribery is not intended to conflict with the bill of rights and have therefore limited it to witnesses other than the accused.

Changes in Style: The proposed section contains in much briefer form the substance of those sections of the present constitution from which it is derived.

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## ARTICLE VIII

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### TAXATION AND FINANCE.

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#### Preliminary Note.

Source: Article IX of the present constitution.

Arrangement: The order of subjects is as follows:

Arrangement: The order of subjects is as follows:

Taxation—sections 1, 2, 3.

Debt of the state government—section 4.

Pledging the credit of the state government—sections 6 to 8, inclusive.

Reserve funds of the state government—section 9.

Restrictions in regard to the paying out of public money - section 10.

Punishment for misuse of moneys of the state government - section 11.

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#### Method of Taxation.

- 1 Section 1. Taxes shall be levied and collected only as pre-
- 2 scribed by general law. A tax shall be uniform upon the same
- 3 class of subjects within the territorial limits of the taxing au-
- 4 thority, except that an income or a decedent's estate below a
- 5 minimum prescribed by law may be exempted from income and
- 6 inheritance taxes.



## Art. VIII, Sec. 1

7 Laws may be enacted providing for the levying and collecting  
 8 of a special tax on anthracite coal when prepared for market.  
 9 An appropriation not exceeding the amount of the proceeds of  
 10 such tax may be made by law for the relief of persons, corpora-  
 11 tions, associations and municipalities injured or damaged by  
 12 surface subsidence resulting from past or future mining of an-  
 13 thracite coal.

## Note.

Source: Part of Article IX, section 1:

"All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; \* \* \*"

Changes in Substance: (1) An income or a decedent's estate below a minimum prescribed by law may be exempted from income and inheritance taxes. The Supreme Court has held that such exemption is not permitted under the present constitution, except in the case of the collateral inheritance tax collected under a law enacted before the constitution became effective (*Cope's Estate*, 191 Pa. 1). The Commission believe that the enactment of laws exempting small incomes and small estates from such taxes should be permitted. The majority of the Commission do not regard it as desirable to permit graduated income or inheritance taxes.

(2) The Commission visited the City of Scranton and saw the conditions created by mine cave-ins. They believe those conditions present problems of grave importance. The second paragraph of the section as proposed is recommended for adoption to make possible a solution of the practical problems presented which will be fair to the public and the persons and corporations especially affected.

Changes in Style: In the present constitution the part of Article IX, section 1, embodied in this section ends with the words "and shall be levied and collected under general laws." As uniformity is provided for in the first part of the section, the only possible meaning to attach to the words quoted would appear to be the prohibition against levying and collecting taxes by executive order. This is a very important provision and therefore we have made it the subject of the opening sentence of the revised section.

The provision that "a reasonable exemption from inheritance taxes may be allowed" limits the rule of uniformity only. It does not limit the rule that "taxes must be levied and collected as prescribed by law." For this reason we have transposed the order of these clauses.

The substance of the last clause of Article IX, section 1, of the present constitution has been transferred to section 2, of this article.

## Art. VIII, Sec. 2

**Exemption From Taxation.**

1 Section 2. Laws may exempt from taxation only public prop-  
 2 erty used for public purposes, places used for religious worship,  
 3 places of burial not used or held for private profit, and institu-  
 4 tions of purely public charity. Private property used for a part  
 5 or all of the time for educational purposes shall only be exempted  
 6 if the basic language of instruction is English and if the educa-  
 7 tional standards are as high as in the public institutions with  
 8 which it is intended to compete.

**Note.**

Source: (1) Part of Article IX, section 1:

“\* \* \* the general assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.”

**(2) Article IX, section 2:**

“All laws exempting property from taxation, other than the property above enumerated, shall be void.”

Changes in Substance: Article IX, section 2, in the present constitution, permits exemptions where the property is used for an educational purpose by institutions of purely public charity. The concluding sentence of the section suggested makes it possible for laws to exempt only (a) if the corporation, association or institution using the property for a part or all of the time for educational purposes employs English as “the principal language of instruction,” and (b) “if the educational standards are as high as in the public institutions with which it is intended to compete.” Your Commission believe that private educational efforts should be discouraged when they tend to prevent persons from acquiring a knowledge of the English language, or give an education inferior to that which they would obtain in the public schools. (Compare Article XI, section 6, as proposed.)

The words “for a part or all of the time” have been used to prevent exemption from taxation being given property used for a school where a foreign language is employed as the principal language of instruction or the standard of instruction is below that of the public schools, on the ground that it is also used for and therefore it is place of religious worship.

Changes in Style: The Commission’s rules of style have been followed.

The requirement that all exemptions must be by general laws is omitted because covered by Article III, section 20, clause (a).

## Art. VIII, Secs. 3, 4

## Power to Tax not to be Surrendered.

- 1 Section 3. The power to tax shall not be surrendered or sus-  
 2 pended by contract or grant.

## Note.

Source: Article IX, section 3:

"The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party."

Changes in Substance: None.

Clarifying Change: Under the wording of the present constitution, it may be regarded as doubtful whether a municipality can or cannot surrender its power to tax. Under the wording proposed by the Commission, this doubt is removed. The section as worded is not limited in its application to the state government.

Changes in Style: The Commission's rules of style have been followed.

## Limitation on State Debt.

- 1 Section 4. A debt shall be created by the state government  
 2 only to supply casual deficiencies of revenue not exceeding one  
 3 million dollars, to repel invasion, to suppress insurrection, to  
 4 defend the commonwealth in war, to pay existing debts, to im-  
 5 prove and rebuild highways in the state and to acquire land in  
 6 the state for forest purposes. A debt for highways shall not be  
 7 incurred in excess of one hundred and fifty million dollars, or for  
 8 forest purposes in excess of twenty-five million dollars. A debt  
 9 for highway or forest purposes shall be created only with the con-  
 10 sent of two-thirds of each house of the general assembly and with  
 11 the consent of a majority of the electors of the commonwealth  
 12 voting on the question: except that the adoption of this consti-  
 13 tution by the electors shall be taken to authorize a law providing  
 14 for the issuance of bonds for forest purposes not in excess of  
 15 three million, one hundred and twenty-five thousand dollars an-  
 16 nually for eight years.

## Note.

Source: Article IX, section 4 (Amendment of Nov. 5, 1918):

"No debt shall be created by or on behalf of the state, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the state in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed in the aggregate, at any one time, one million dollars; Provided, however, That the general assembly, irrespective of any debt, may authorize the state

## Art. VIII, Secs. 5, 6

to issue bonds to the amount of fifty millions of dollars for the purpose of improving and rebuilding the highways of the commonwealth."

Changes in Substance: (1) The amount which can be borrowed for highways is increased from fifty million to one hundred and fifty millions of dollars.

(2) A debt not exceeding twenty-five million dollars may be created for forest purposes.

(3) A bill authorizing a debt to improve and rebuild highways or for forest purposes must be passed by a two-thirds vote of the members elected to each house and must also receive the consent of a majority of the electors of the commonwealth voting on the question, except that the adoption of the proposed constitution by the electors shall be taken to authorize a law providing for the issuance of bonds for forest purposes not in excess of three million, one hundred and twenty-five thousand dollars annually for eight years.

Changes in Style: Article IX, section 4, of the present constitution (Amendment of November 5, 1918), provides that "No debt shall be created by or on behalf of the state government." We have omitted the words "on behalf of" because a debt of the state government can be created only by an authorized agent of the state government and when created by such agent is created by the state government.

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### Law Shall State Purpose of Loan.

- 1 Section 5. A law authorizing the borrowing of money by the
- 2 state government shall specify the purpose of the loan. The
- 3 money borrowed shall be used only for such purpose.

#### Note.

Source: Article IX, section 5:

"All laws, authorizing the borrowing of money by and on behalf of the state, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Amortization of State Debt.

- 1 Section 6. The state government shall not incur a debt matur-
- 2 ing more than fifty years thereafter.
- 3 If serial bonds are issued for a debt, the aggregate amount of
- 4 principal and interest payable in respect to the debt in any year
- 5 shall not be less than the amount payable in any later year

## Art. VIII, Sec. 6

6 If serial bonds are not issued, the state government shall main-  
 7 tain by law a sinking fund sufficient to pay the accruing interest  
 8 on such debt and annually to reduce the principal by a sum not  
 9 less than three per centum of such principal. The money of the  
 10 sinking fund shall be invested only in the bonds of the United  
 11 States or of the state government.

## Note.

Source: (1) Article IX, section 11:

"To provide for the payment of the present state debt, and any additional debt contracted as aforesaid, the general assembly shall continue and maintain the sinking fund sufficient to pay the accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the state not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt."

(2) Article IX, section 12:

"\* \* \* and the moneys of the sinking fund shall never be invested or loaned upon the security of anything, except the bonds of the United States or of this state."

Changes in Substances: (1) The section as proposed limits the date of maturity of a debt of the state government to a period of not more than fifty years. The useful life of the average public improvement does not exceed that time. The fifty-year period corresponds to the provision which has been adopted for municipal debts. (See Article XIII, section 18). Furthermore, as the state government is permitted, by the proposed constitution, to issue serial bonds, it is necessary to state in the constitution the maximum life which may be given to the longest bond in the series.

(2) It permits the state government to discard the sinking fund method of amortization and adopt the more modern and, your Commission believe, the better method of issuing bonds a definite fraction of which shall fall due each year.

(3) The provisions in the present constitution and in the section as adopted by the Commission, attempting to direct what the sinking fund shall consist of, are omitted. As worded, the present provisions raise several important questions which it is not easy to answer. Thus, it is stated that

## Art. VIII, Sec. 7

the sinking fund is to consist of the income or proceeds of the sale of stocks owned by the state government. Is this confined to stocks acquired by purchase by the state government? If it is not, suppose A dies and leaves a specific legacy of designated stocks to the state: Do the income or proceeds of the sale of these stocks have to be paid into the sinking fund? It is entirely clear that the proceeds of the sale of the stock by an administrator where the state escheats to the commonwealth do not have to be paid into the sinking fund? If they did have to be paid into the sinking fund, there is a conflict between the provisions of this section and Article XI, section 5, which requires that all money derived from escheated estates shall become part of the state school fund. The present constitution also provides that the sinking fund shall be increased from time to time by assigning to it any part of the taxes or other revenue of the state government not required for the "ordinary and current expenses of government." Is it entirely clear that the proceeds of a special tax levied for an extraordinary purpose—as to build a bridge across the Delaware—would not have to be paid into the sinking fund as not being an ordinary and current expense? If the words "ordinary and current" are to have any meaning what is their meaning?—except an expression of the principle that so long as there are state debts to be paid no revenue can be raised for what the supreme court might regard as an extraordinary purpose.

Even if the intent of the provisions could be made plain, your Committee do not regard it as desirable that the constitution should attempt to designate the nature of the assets of the sinking fund.

(4) The requirement in Article IX, section 11 of the present constitution, that the sinking fund shall be sufficient to pay accruing interest on the debt and reduce the principal by \$250,000, has been changed so as to require the reduction of the principal by three per centum annually.

(5) In the present constitution the sinking fund may be used for purposes other than the reduction of the public debt, in case of war, invasion or insurrection. The suggested section omits these exceptions.

Changes in Style: The Commission's rules of style have been followed.

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### State Credit Not to be Pledged.

- 1 Section 7. The state government shall not pledge or lend its
- 2 credit to an individual, corporation or association and shall not
- 3 become a stockholder or an owner in a corporation or associa-
- 4 tion.

Art. VIII, Sec. 8

Note.

Source: Article IX, section 6:

"The credit of the commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the commonwealth become a joint owner or stockholder in any company, association or corporation."

Changes in Substance: None.

Clarifying Changes: Under the wording of Article IX, section 6 in the present constitution, prohibiting the commonwealth from becoming a "joint owner or stockholder" it is not entirely clear whether the word "joint" is intended to qualify the word "owner" and the word "stockholder." If it does, it would follow that the state government could become the sole owner of all the stock of a corporation but could not become the owner of part of the stock and thus share responsibility with private owners. We believe the re-wording suggested, which, by omitting the word "joint," makes it clear that the state government shall not own the stock or other evidence of ownership of a corporation or an incorporated association, expresses a fundamental rule which should not be subject to possible qualifications.

Changes in Style: The Commission's rules of style have been followed.

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Municipal Debt Not to be Assumed by State.

1 Section 8. The state government shall not assume the debt  
2 of a municipality unless contracted to enable the commonwealth  
3 to repel invasion, to suppress insurrection or to defend itself in  
4 war.

Note.

Source: Article IX, section 9:

"The commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the state to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the state in the discharge of any portion of its present indebtedness."

Changes in Substance: The use of the word "municipality" in the proposed section, instead of "city, county, borough or township," applies the principle enumerated in the section to any municipality, as "municipality" is defined in Article XIII, section 1.

Changes in Style: Article IX, section 9 of the present constitution, provides that the state may assume the debt of a "city, county, borough or township" when the debt has been con-

Art. VIII, Secs. 9, 10

tracted "to assist the state in the discharge of any portion of its present indebtedness." This has been omitted as obsolete. No part of the present indebtedness of any municipality has been contracted for such a purpose.

The Commission's rules of style have been followed.

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### Reserve Funds.

- 1 Section 9. The money held as necessary reserve by the state  
2 government shall be limited by law to the amount required for  
3 current expenses and shall be secured and kept as prescribed by  
4 law. Monthly statements shall be published showing the amount  
5 of such money, where it is deposited, and how it is secured.

### Note.

Source: Article IX, section 13:

"The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Paying Out Public Money.

- 1 Section 10. Money shall be paid out of the state treasury  
2 only on appropriations made by law and on warrant by the  
3 proper officer in pursuance thereof.

### Note.

Source: Article III, section 16:

"No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant by the proper officer in pursuance thereof."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.



Art. VIII, 11; Art. IX

### Misuse of Public Moneys.

1 Section 11. An officer or an employe of the state government  
 2 or of a municipality or a member of the general assembly who  
 3 shall make or attempt to make a profit out of the money of the  
 4 state government or of a municipality or shall use it for an  
 5 unauthorized purpose, shall be guilty of a misdemeanor and  
 6 shall be punished as prescribed by law.

#### Note.

Source: Part of Article IX, section 14:

"The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the state, or member or officer of the general assembly, shall be a misdemeanor and shall be punished as may be provided by law, \* \* \*

Changes in Substance: The principle expressed in Article IX, section 4 of the present constitution has been extended to "employees."

Clarifying Changes: (1) Under the present constitution, it is not clear whether "public moneys" include moneys belonging to a municipality or only moneys of the state government. Again it is not clear whether "officer of the state" includes any officer who is not an officer of the state government. In view of the fact that, in the present constitution, this section follows a section which evidently deals exclusively with money of the state government, it is probably that the drafters of the section intended to confine its provisions to officers of the state government misusing state money. As proposed, the section is worded so as to include the officers of a municipality.

(2) It is made clear that an attempt to make a profit is covered by this section.

Changes in Style: The Commission's rules of style have been followed.

The last part of Article IX, section 14, of the present constitution, referring to a disqualification for holding office has been transferred to Article VII, section 3.

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## ARTICLE IX.

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### CORPORATIONS.

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#### Preliminary Note.

Source: Article XVI of the present constitution, in so far as the provisions of that article relate to all private corporations and are not special regulations of public utilities.

## Art. IX, Sec. 1

Title: Article XVI of the present constitution is entitled "Private Corporations." The Commission have entitled this article "Corporations" because, except where specially limited by the wording of the section to a particular class of corporations, the provisions relate to all corporations, whether or not they are engaged in the operation of a public facility, as a railroad or a telegraph. Furthermore, since the word "corporation" is used throughout the proposed constitution as defined in this article, section 13 and is never used as including "municipal corporations," it is not necessary to indicate in the title to this article that such public corporations are not included.

Arrangement: The order of subjects is as follows:

Corporate powers—section 1.

Corporate securities—sections 2 to 4 inclusive.

Corporate elections—section 5.

Foreign corporations—section 6.

Miscellaneous—sections 7 to 12 inclusive.

Definition—section 13.

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### Corporate Powers.

- 1 Section 1. A corporation shall engage only in the business
- 2 authorized by its charter.

#### Note.

Source: Article XVI, section 6:

"No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business."

Changes in Substance: The provision in the present constitution that a corporation cannot hold any real estate except such as may be necessary and proper for its business has been omitted because it only means that a corporation cannot hold any real estate for the purpose of engaging in a business not authorized by its charter, such holding is prevented by the wording of the section herein suggested. If the wording of the present constitution may be interpreted as preventing a corporation holding for its future use in its authorized business more property than it is actually using in its business at the moment, the provision is harmful, because it prevents persons carrying on business in corporate form from acting in the conduct of their business as ordinary prudent business men should act, in that it prevents them from securing sufficient real estate to anticipate what they may reasonably expect to be the needs of their business.

## Art. IX, Sec 2

Changes in Style: The Commission's rules of style have been followed.

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## Stocks and Bonds.

1 Section 2. Subject to such regulations as to issue and sale  
2 as may be prescribed by law or by an agency established by law,  
3 shares of stock may be issued with or without par value. Shares  
4 of stock having par value shall be issued as full paid only for the  
5 equivalent of such par value in money, labor done or property  
6 received, except that a corporation may issue additional full  
7 paid shares as prescribed by law or by an agency created by law,  
8 for a consideration in money, labor done or property equal to the  
9 current market value of its shares theretofore issued. Neither  
10 the stock nor the indebtedness of corporations shall be increased  
11 except in pursuance of general law or without the consent of  
12 the holders of the larger amount in value of the stock first ob-  
13 tained at a meeting to be held after thirty days' notice given in  
14 pursuance of law.

## Note.

Source: Article XVI, section 7:

"No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, first obtained at a meeting to be held after sixty days' notice given in pursuance of law."

Changes in Substance: (1) That part of the section herein proposed which provides that a corporation may issue full-paid shares for a consideration equal to the current market value of the shares heretofore issued, makes it possible for a corporation whose shares are below par on the market to procure additional capital by issuing and selling additional stock below par, provided the price paid by the subscriber is not less than the current market value of the shares theretofore issued. The majority of the Commission believe that this exception to the general principle that shares of stock shall not be issued for a value received by the corporation less than that stated on the certificate is wise, because otherwise a corporation whose stock is below par is prevented from securing additional capital by increasing the amount contributed by the owners, and therefore is obliged to secure such additional capital by increasing its liabilities to outsiders. The possible abuse of the privilege of issuing, under the conditions set forth, stock at less than par, is, in the

## Art. IX, Sec 3

judgment of the majority of the Commission, sufficiently safeguarded in the provisions providing for public notice to be specified in the act regulating the exercise of this constitutional power, or by an agency created by law.

(2) The provision of Article XVI, section 7, of the present constitution, requiring bonds to be issued only for money, labor done or property actually received, has been omitted.

(3) The sixty days' notice required in the present constitution for a meeting to pass on proposed issues of stock or indebtedness is reduced to thirty days.

Clarifying Changes: (1) The statement that stock may be issued without par value prevents the possibility of the rest of the section being interpreted as indirectly prohibiting stock being issued without par value. There is a possibility of this question being raised under the wording of Article XVI, section 7, in the present constitution.

(2) The provisions in Article XVI, section 7, of the present constitution, that "all fictitious increase of stock or indebtedness shall be void," is omitted. The provision is ambiguous and therefore merely invites litigation, as there is no basis for determining what a fictitious issue is. To enforce literally the provision would often do great injustice to innocent holders of such securities who buy in good faith without knowledge of the original infirmity of issue.

Changes in Style: The Commission's rules of style have been followed.

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### Investment of Trust Funds.

- 1 Section 3. No law shall authorize fiduciaries to invest in
- 2 stock or securities issued by a corporation except in bonds ap-
- 3 proved by an agency created by law.

#### Note.

Source: Article III, section 22:

"No act of the general assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stocks of any private corporation, and such acts now existing are avoided saving investments heretofore made."

Changes in Substance: The provisions permitting investment in the bonds of a corporation when the investment is approved by an agency created by law is new. The Commission believe that, as thus carefully safe-guarded, the extension of possible trust investments under the wording of the proposed section is advisable. The bonds of many corporations secured by a first mortgage are, from the point of view of the careful investor, absolutely safe.

## Art. IX, Secs. 4, 5

Changes in Style: The provision in the present constitution "and such acts now existing are avoided saving investments heretofore made" is omitted because it has become obsolete.

## Bank Notes and Bills.

1 Section 4. A note or bill issued for circulation by a banking  
2 corporation shall be registered and countersigned by an officer  
3 of the state government, and its payment shall be secured by the  
4 deposit of security to the full amount thereof with the state  
5 treasurer. The method of registering, countersigning and secur-  
6 ing payment shall be prescribed by law.

## Note.

Source: Article XVI, section 9:

"Every banking law shall provide for the registry and countersigning, by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the auditor general for the redemption of such notes or bills."

Changes in Substance: Security must be deposited with the state treasurer, not with the auditor general as required by the present constitution.

Changes in Style: The words "banking law" in Article XVI, section 9, of the present constitution, must be interpreted in a special technical meaning as denoting "a law regulating the issue by banks of bills and notes for circulation as money," or the section is meaningless. The wording of the section herein proposed avoids this necessity:

## Cumulative Voting.

1 Section 5. In elections for directors or managers of a corpora-  
2 tion each member or voting stockholder may cast his votes for  
3 one candidate, or may distribute them among two or more candi-  
4 dates.

## Note.

Source: Article XVI, section 4:

"In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer."

Changes in Substance: None.

## Art. IX, Secs. 6, 7

Clarifying Changes: Article XVI, section 4 of the present constitution is worded as if there never was an agreement between stockholders that the holders of a certain class of stock were without voting power. In practice, stock without voting rights is issued and your Commission do not believe that the constitution should be so worded as to throw a doubt on the legality of the restriction. The re-wording of the section as herein suggested therefore expressly confines the right of cumulative voting to those members or stockholders who have voting rights.

Changes in Style: The Commission's rules of style have been followed.

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Foreign Corporations.

- 1 Section 6. A foreign corporation shall not do business in this  
2 state without having in the state a known place of business and  
3 without making the secretary of the commonwealth an agent of  
4 the corporation upon whom process may be served.

## Note.

Source: Article XVI, section 5:

"No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served."

Changes in Substance: The existing statutory law (see Act of June 8, 1911, L. 710), requires a foreign corporation doing business in the state to designate the secretary of the commonwealth as its agent upon whom process may be served. It does not require such corporation to designate an agent in its place or agents in its places of business. The present practice, irrespective of whether it conforms to the existing constitutional requirement, efficiently protects persons having claims against such foreign corporations which they desire to prosecute in the courts. The wording of the section suggested would make the constitutional requirement conform to a rule that has been proved to be satisfactory.

Changes in Style: The Commission's rules of style have been followed.

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Commonwealth's Rights of Eminent Domain and Police Power.

- 1 Section 7. The exercise of the right of eminent domain shall  
2 not be abridged or so construed as to prevent the taking by law  
3 of the property and franchises of corporations and subjecting

## Art. IX, Sec. 8

4 them to public use the same as the property of individuals. The  
5 exercise of the police power shall not be abridged or so construed  
6 as to permit corporations to conduct their business in such man-  
7 ner as to infringe the equal rights of individuals or the general  
8 well-being of the state.

## Note.

Source: Article XVI, section 3:

"The exercise of the right of eminent domain shall never be abridged or so construed as to permit the general assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## Corporate Obligations Owned by State.

1 Section 8. Except as prescribed by law, an obligation of a  
2 corporation held or owned by the state government shall not be  
3 exchanged, transferred, remitted, postponed, diminished or dis-  
4 charged except by payment thereof into the state treasury.

## Note.

Source: Article III, section 24:

"No obligation or liability of any railroad or other corporation, held or owned by the commonwealth, shall ever be exchanged, transferred, remitted, postponed or in any way diminished by the general assembly, nor shall such liability or obligation be released, except by payment thereof into the state treasury."

Changes in Substance: The restrictions of the section are confined to cases where no provision for dealing with the subject has been prescribed by law. The Commission believe that the state government should have the right to make regulations under which it could deal with the obligations of a corporation held by it in any manner conducive to the public interest, and that it may be that in order to safeguard the interests of the state government as an owner of corporate securities, the state government should be permitted to exchange, transfer or even to remit, postpone or diminish the obligation.

Changes in Style: The Commission's rules of style have been followed.

Art. IX, Secs. 9, 10

### Statutes of Limitations.

- 1 Section 9. No law shall discriminate between corporations
- 2 and individuals with respect to the time in which suit may be
- 3 brought against either.

#### Note.

Source: Part of Article III, section 21:

“\* \* \* No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.” (Amendments of November 2, 1915.)

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

### Revocation and Alteration of Corporate Charters.

- 1 Section 10. Laws may be enacted for the alteration, revoca-
- 2 tion, or annulment of corporate charters revocable when this
- 3 constitution becomes effective or thereafter granted when such
- 4 charters shall be deemed injurious to the citizens of the common-
- 5 wealth, in such manner, however, that no injustice shall be done.

#### Note.

Source: Article XVI, section 10:

“The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.”

Changes in Substance: None.

Clarifying Changes: The Commission have omitted that part of Article XVI, section 10, of the present constitution, which provides that: “No law hereafter enacted shall create, renew or extend the charter of more than one corporation,” because there is apparently a direct conflict between its provision and Article III, section 20, clause (m), (Article III, section 7, clause 26 of the present constitution) which provides that no special law shall be enacted “creating corporations, or amending, renewing or extending their charters.” It is evident that a literal enforcement of both of these provisions would prevent the creation of any corporation, or



## Art. IX, Sec. 11

the renewal or the extension of the charter of any existing corporation. By the provisions of Article III, a law creating, extending or renewing a corporation cannot be special, that is, apply to only one designated corporation; while under the provisions of Article XVI, no general law creating corporations or extending or renewing the charters of existing corporations can be passed.

The conflict between the two articles apparently occurred in the following manner: The Convention of 1837 adopted the policy of preventing a law being passed creating more than one corporation, or renewing or extending the charter of more than one corporation. This policy was embodied in the constitution of 1838, Article I, section 25, which provides: "No law hereafter enacted shall create, renew or extend the charter of more than one corporation."

The Convention of 1873 adopted an entirely different policy, namely, that of preventing any special law being passed relating to corporations. This policy they embodied in Article III, section 7, clause 26, of the present constitution, but omitted to strike out the provision of the constitution of 1838.

The conflict is avoided in the section proposed by omitting that part of Article XVI, section 10, of the present constitution, which embodies the earlier and now obsolete policy of the constitution of 1838.

**Changes in Style:** The Commission's rules of style have been followed.

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### Conditions Imposed on Certain Benefits to Corporations.

- 1 Section 11. No law shall remit the forfeiture of the charter
- 2 of a corporation now existing, or amend the same, or otherwise
- 3 benefit such corporation, except upon condition that it shall
- 4 thereafter hold its charter subject to the provisions of this
- 5 constitution.

Note.

Source: Article XVI, section 2:

"The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution."

**Changes in Substance:** None.

**Changes in Style:** The Commission's rules of style have been followed.

Art. IX, Secs. 12, 13

### Bank and Trust Companies.

1 Section 12. Laws may be enacted to provide for the incor-  
2 poration of banks and trust companies and to prescribe the  
3 powers thereof.

#### Note.

Source: Article XVI, section 11:

"The general assembly shall have the power by general law to provide for the incorporation of banks and trust companies and to prescribe the powers thereof." (Amendment of November 2, 1920.)

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Definition of Corporations.

1 Section 13. The term "corporation" as used in this constitu-  
2 tion includes joint stock companies or associations having any  
3 of the powers or privileges of corporations not possessed by  
4 individuals or partnerships.

#### Note.

Source: Article XVI, section 13:

"The term 'corporations,' as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships."

Changes in Substance: None.

Clarifying Changes: As, throughout the draft of the constitution herein suggested, the term "corporation" is never used except as defined in this section, the limitation of the definition found in the present constitution to the use of the term "in this article" is omitted.

Changes in Style: The Commission's rules of style have been followed.

Art. X, Sec. 1

## ARTICLE X.

### PUBLIC UTILITIES.

#### Preliminary Note.

Source: Article XVII of the present constitution and all those provisions in Article XVI which relate to public utilities.

Title: In the present constitution, Article XVII is entitled "Railroads and Canals." As, in the draft of the constitution herein proposed we have expanded many of the provisions to cover all common carriers, or, in many cases, all public utilities, the restricted title of the present article is no longer applicable. We have used the title "Public Utilities" rather than the title "Public Service Corporations" because, throughout the article, except when the provisions are expressly limited to corporations, the obligations imposed do not vary because the public utility is owned or operated by an individual or an unincorporated association, rather than a corporation.

Arrangement: The order of subjects is as follows:

General power of regulation of public utilities—section 1.

Mutual rights and obligations of certain classes of public utilities—sections 2 to 4, inclusive.

Rights of individuals, associations and corporations in regard to the charges and services of certain classes of public utilities—sections 5 and 6.

Provisions in regard to the consolidation of public service corporations—section 7.

Limitation of powers of common carriers—sections 8 and 9.

Special provisions in regard to the waters of the state—section 10.

Enforcement of this article—section 11.

#### Regulation of Public Utilities.

- 1 Section 1. Public service and the business of those engaged
- 2 therein may be regulated by law or by an agency created by law.

#### Note.

Source: This is entirely new matter. Although it is a statement of a principle universally recognized by the courts, the Commission believe that its fundamental character and importance warrant its embodiment in the constitution.

Art. X, Secs. 2, 3

### Eminent Domain.

1 Section 2. A corporation, association, individual or munici-  
2 pality invested with the privilege of taking private property for  
3 public use shall make just compensation for property taken, in-  
4 jured or destroyed. The compensation shall be paid or secured  
5 before such taking, injury or destruction. No law shall deprive  
6 a person of an appeal from a preliminary assessment of damages,  
7 and, on appeal, either party may have the damages assessed by  
8 a jury according to the course of the common law.

#### Note.

Source: Article XVI, section 8:

“Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party be determined by a jury according to the course of the common law.”

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Common Carriers, Telegraph and Telephone Lines.

1 Section 3. Railroads and canals shall be public highways and  
2 railroad and canal corporations shall be common carriers. Such  
3 corporations may construct and operate railroads and canals  
4 between any points within the state and may cross and connect  
5 with other railroads and canals within the state and at the state  
6 line. They shall receive, at connecting points, and shall trans-  
7 port, each other's passengers and freight without delay or dis-  
8 crimination. Railroad corporations shall receive at connecting  
9 points and transport each other's cars and canal corporations  
10 shall likewise receive and transport each other's vessels.  
11 A corporation organized for the purpose shall have the right  
12 to construct lines of telegraph and telephone within the state.  
13 The owners or operators of telegraph or telephone lines may  
14 connect them with the telegraph and telephone lines of others.  
15 They shall receive at connecting points and shall transmit each  
16 other's messages.

## Art. X, Sec. 3

17 The rights and obligations set forth in this section shall be  
 18 exercised only as prescribed by law or by an agency created  
 19 by law.

## Note.

Source: (1) Article XVII, section 1:

"All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each the other's passengers, tonnage and cars loaded or empty, without delay or discrimination."

(2) Part of Article XVI, section 12:

"Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines, and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. \* \* \*

Changes in Substance: (1) The statement of the right to construct and operate a railroad is confined to corporations organized for the purpose. In the present constitution the right is conferred, also, on "associations \* \* \* organized for the purpose." The section herein proposed omits any reference to associations because it is not practical to carry on the business of constructing and maintaining a railroad by a private agency other than a corporation.

(2) The right to construct and operate a canal is expressly given to canal corporations.

(3) As herein suggested, the section sets forth the right of a canal corporation to connect its facilities with and construct its facilities across the facilities of other canals and railroad corporations, and the right of a railroad corporation to connect its facilities with and construct its facilities across the facilities of other railroads and canals. Under the present constitution, this right of connection and crossing is confined to railroad corporations, and the right of railroad corporations to connect their facilities with or construct their facilities across the facilities of canal corporations is not mentioned.

(4) The section herein suggested sets forth the obligations of a railroad corporation to receive and transport the passengers and freight delivered at connecting points by other railroad and canal corporations. Under the present constitution, the statement of obligation is confined to railroad corporations, no reference being made to any obligation on rail-

## Art. X, Secs. 4, 5

road corporations to receive and transport passengers and freight delivered by canal corporations, or of a reciprocal obligation on the part of canal corporations.

(5) The section herein suggested sets forth the obligation of a railroad corporation to receive and transport the cars of another railroad corporation when delivered at connecting points, and also the obligation of a canal corporation to receive and transport the vessels of other canal corporations when delivered at connecting points. The wording of the corresponding section in the present constitution confines the statement of the obligation to the obligation of railroad corporations to receive and transport each other's cars.

(6) Article XVI, section 12, of the present constitution gives to individuals, associations and corporations the right to construct and maintain telegraph lines. The section proposed confines this constitutional right to corporations organized for the purpose and confers on telephone corporations a similar right in respect to telephone lines.

Changes in Style: The Commission's rules of style have been followed.

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### Construction of Canals to Conform to Fixed Standards.

- 1 Section 4. Provision shall be made by law for the construc-  
2 tion of canals in accordance with standards prescribed by law  
3 or by an agency created by law.

#### Note.

Source: This is entirely new matter. The mutual right of transporting canal vessels is not practicable unless canal facilities are constructed according to standards, which, as far as practicable, should be uniform through the state. These standards should be prescribed by law or by an agency like the Public Service Commission.

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### No Discrimination in Services or Charges.

- 1 Section 5. All individuals, associations and corporations shall  
2 have equal right to have persons and property transported over  
3 railroads and canals and to have messages transmitted over  
4 telegraph and telephone lines. There shall be no undue or un-  
5 reasonable discrimination, in facilities or charges, for such trans-  
6 portation or transmission within the state or coming from or  
7 going to another state. A charge for such transportation or  
8 transmission within the state shall not exceed the charge for a  
9 similar service in the same direction to a more distant point but  
10 excursion or commutation tickets may be issued at special rates.

## Art. X, Sec. 6

## Note.

Source: Article XVII, section 3:

"All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the state or coming from or going to any other state. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates."

Changes in Substance: The extension to the services and charges of telegraph and telephone lines, of the principle embodied in the corresponding sections of the present constitution preventing discrimination in the service and charges by railroad and canal corporations, and a less charge by such corporations for transportation to a more distant than a nearer point in the same direction.

Changes in Style: The Commission's rules of style have been followed.

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### Preferences and Rebates Prohibited.

1 Section 6. No discrimination in charges or facilities for trans-  
 2 portation shall be made between transportation corporations and  
 3 individuals, or in favor of either, by abatement, drawback or  
 4 otherwise, and no railroad or canal corporation, or any lessee,  
 5 manager or employe thereof, shall make preferences in furnish-  
 6 ing service.

## Note.

Source: Article XVII, section 7:

"No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager or employe thereof, shall make any preferences in furnishing cars or motive power."

Changes in Substance: None.

Changes in Style: The exact language of the corresponding section in the present constitution is used, except that in accordance with the uniform recommendation of the Commission, the word "corporation" is used instead of "company."

## Art. X, Sec. 7

## Consolidation Permitted.

1 Section 7. A public service corporation, when authorized by  
2 law or by an agency created by law, may consolidate with an-  
3 other public service corporation or may acquire its stock, prop-  
4 erty or franchise.

## Note.

Source: Article XVII, section 4:

"No railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line: nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation owning or having the control of a parallel or competing line: and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil issues."

Changes in Substance: The provisions of the present constitution (Article XVII, section 4) are confined to railroads and canal corporations, owning or operating competing lines. When the present constitution was adopted, the importance of railroads and canals overshadowed the comparatively few corporations carrying on other kinds of public service. There was, therefore, at that time, not the necessity which exists today of expressing in the constitution the policy of the commonwealth towards the whole subject of the consolidation of public service corporations irrespective of the nature of the public service performed.

In the proposed section, it is expressly stated that any two or more public service corporations may consolidate when permitted to do so by law or by an agency created by law, such as the Public Service Commission.

When the present Constitution was adopted, the only known way to prevent the evils of the monopolistic control of public utilities by private corporations was to prevent the consolidation of any two public service corporations which operated public facilities. In the last fifty years an entirely new system of meeting the problems presented by the private ownership and operation of public utilities has become firmly established in federal and state practice. The state government, through its public service commission is exercising the power of the commonwealth to regulate the rates of charges made and the service given by all public service corporations. Under the present system of complete public regulation as to rates and service, there are many cases in which the consolidation of two public service corporations



## Art. X, Sec. 8

and the operation of their facilities as one system, as, for instance, all the passenger railway lines in a city, may be of distinct advantage to the public. Two telephone lines serving the same district, though in some cases of temporary advantage to the public, in others represent an unnecessary and therefore uneconomical and harmful waste of capital and energy.

We believe, therefore, that the policy expressed in Article XVII, section 4, of the present constitution, which seeks to absolutely prevent, under all circumstances, the consolidation of canal or railroad corporations owning parallel or competing lines, is unwise. This does not mean, however, that we believe two such corporations should be allowed to consolidate at any time. On the contrary, we believe that the whole question of their consolidation should be regulated by law or by an agency created by law, such as the Public Service Commission. The section as proposed herein embodies this policy.

Changes in Style: The Commission's rules of style have been followed.

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### Powers of Common Carriers.

1 Section 8. A corporation being a common carrier shall not  
2 transport over facilities which it owns or operates articles which  
3 it has, directly or indirectly, mined or manufactured for sale.

4 It shall engage only in the business of a common carrier, ex-  
5 cept that if it uses electricity as a motive power, it may, when  
6 authorized by an agency created by law, furnish electricity to  
7 other for light, heat or power.

8 A mining or manufacturing corporation shall not be deemed  
9 a common carrier for the purposes of this section by reason of  
10 carrying its products on its railroad or canal not exceeding fifty  
11 miles in length.

### Note.

Source: Article XVII, section 5:

"No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length."

## Art. X, Sec. 8

Changes in Substance: (1) The present constitution, Article XVII, section 5, expressly prevents a common carrier from acquiring land not necessary for its business. This provision has been omitted because the existence of the provision tends to prevent acquiring land that, while not immediately necessary for the business of the common carrier, should be acquired to provide for future needs. Article IX, as proposed, prevents a corporation going into any business not authorized by its charter. The omission of the restriction which is found in the present constitution, therefore, will not enable a common carrier to acquire land for other purposes than its legitimate business.

(2) Article XVII, section 5, prevents a corporation being a common carrier engaging in any other business. The section herein proposed makes one exception by giving to a common carrier using electricity as a motive power the right "when authorized by an agency created by law" to "furnish electricity to others for light, heat or power." We believe, as thus guarded, this exception is in the public interest. A trolley corporation may use electricity generated by waterpower to run its cars. There does not appear to be any good reason why, in such case, the owners should not have the right to dispose of the surplus electrical power generated, if it is permitted to do so by such a body as the Public Service Commission.

Clarifying Changes: (1) The provision in the corresponding section of the present constitution that a common carrier shall not "directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works" is ambiguous. No common carrier engages in manufacturing articles for the purpose of transporting them. The purpose of the manufacture is sale. The transportation may or may not be a necessary incident of the sale. In view of the well-known evils resulting from a common carrier engaging in mining or manufacturing in competition with other mining or manufacturing corporations situated along its lines, it is reasonably certain that the intent of those who drafted this section in the present constitution was, as expressed in the section herein suggested, to prevent a corporation being a common carrier transporting over its lines property mined or manufactured by it for the purpose of sale.

(2) Under the wording of the present constitution, it is uncertain whether it is constitutional for a corporation, being a common carrier, to transport over its facilities an article such as coal mined by it for the purpose of its own consumption. In the draft herein suggested, if a common carrier may mine coal for its own use, it may convey it.

(3) The section herein suggested is so worded as to remove any possibility of a contention that a mining or manufacturing corporation becomes a common carrier for the

## Art. X, Sec. 9

purpose of the section by reason alone of its carrying its products on its railroad or canal less than fifty miles in length. This was probably the intent of the drafters of the corresponding section in the present constitution. The provision, in Article XVII, section 5, that "any mining or manufacturing corporation may carry the products of its mines and manufactures on its railroad or canal not exceeding fifty miles in length" was evidently inserted in the present constitution as a matter of extra precaution. The rest of the section does not prevent such mining or manufacturing corporation carrying its own products on its own railroad or canal unless the mining and manufacturing corporation, by operating a railroad or canal less than fifty miles in length for the purpose of carrying its own products, becomes thereby a common carrier. If it does become a common carrier, then the carrying of its own products and the engaging in mining is directly contrary to all the prohibitions of the section. There is, however, nothing in the present constitution which makes a manufacturing company constructing its own railroad or canal to carry its own products a common carrier. Section 1 of Article XVII, of the present constitution, declares that "All railroads and canals shall be public highways," but it does not say that all corporations owning a track and running cars over the track shall be common carriers; it provides merely that "all railroad and canal companies shall be common carriers."

Changes in Style: The Commission's rules of style have been followed.

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### Passes Prohibited.

- 1 Section 9. A corporation being a common carrier shall not
- 2 grant free passes or reduced rates to any person except to its
- 3 own officers or employes.

#### Note.

Source: Article XVII, section 8:

"No railroad, railway or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employes of the company."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

Art. X, Secs. 10, 11; Art. XI

### Water Rights.

1 Section 10. A right in waters shall not be granted by the  
2 state government or by a municipality for more than fifty years  
3 or without reasonable compensation. At the expiration of the  
4 first or of any subsequent grant, the state government or the  
5 municipality shall make a new grant to the holder of the right,  
6 or pay, or cause to be paid, compensation for all property neces-  
7 sary to the exercise of the right and upon such payment title to  
8 said property shall vest in the state government or municipality  
9 or corporation making the payment.

#### Note.

Source: This is entirely new matter. It recognizes the principle that the people of the commonwealth should not part permanently with any right they now have in the waters of the state, and where such right is temporarily vested in individuals, associations or corporations, reasonable compensation shall be made. The concluding part of section assures the necessary protection to investors in the property necessary to utilize the exercise of the grant.

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### Enforcement of this Article.

1 Section 11. Laws shall be enacted to enforce the provisions  
2 of this article.

#### Note.

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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## ARTICLE XI.

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### EDUCATION.

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#### Preliminary Note.

Source: Article X.

The principle that the constitution of the commonwealth should impose on the general assembly the obligation to provide education has been recognized in each of our constitutions.

## Art. XI, Sec. 1

The 44th section of the constitution of 1776 provided:

"Section the Forty-fourth. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted in one or more universities."

Article VII of the constitutions of 1790 and 1838 provided:

"Section 1. The legislature shall, as soon as conveniently may be, provide, by law, for the establishment of schools throughout the state, in such manner that the poor may be taught gratis."

"Section 2. The arts and sciences shall be promoted in one or more seminaries of learning."

Article IV, section 1, of the present constitution provides for a superintendent of public instruction, and Article X, "for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose."

The present Superintendent of Public Instruction, Dr. Thomas E. Finegan, and others who have made a life-long study of educational systems, brought before us conclusive proof that Pennsylvania is behind many other northern states in educational work. We are impressed with the fact that the welfare of the commonwealth imperatively demands an immediate improvement in our educational system.

Your Commission therefore believe that the constitution should not only emphasize the obligation to create and support an efficient educational system, but should set forth that system in sufficient detail to give a clear picture of its general nature and extent.

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### Educational System of the Commonwealth.

1 Section 1. Laws shall be enacted providing for the operation  
2 and maintenance of a public educational system for the common-  
3 wealth. This shall include public schools for the free elementary,  
4 secondary and vocational education of all children of the com-  
5 monwealth, for the free mental and vocational education of per-  
6 sons under mental or physical disability, for the free education in  
7 American citizenship of adults, and for the training of teachers,  
8 a system of public libraries, one or more public universities, and  
9 such other public educational institutions and agencies as may  
10 be wise and necessary for the improvement of the citizenship  
11 of the commonwealth.

Art. XI, Secs. 2, 3

### Note.

Source: Article X, section 1:

"The general assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose."

Changes in Substance: (1) Elimination of the reference to "six years" as being the age at which the commonwealth becomes responsible for the child's education. Full responsibility for a child's education may make desirable instruction before the child reaches six years.

(2) The imposition of an obligation to provide:

- (a) Free public elementary, secondary and vocational education for all children.
- (b) Free public mental and vocational training for persons under mental or physical disability.
- (c) Free public education for adults in American citizenship.
- (d) Public schools for the training of teachers.
- (e) Public libraries.
- (f) One or more public universities.
- (g) Other public educational institutions and agencies that may be wise and necessary for the improvement of the citizenship of the commonwealth.

(3) The omission of a provision for the annual appropriation by the state government of a specific sum of money.

Changes in Style: The Commission's rules of style have been followed.

### State Council of Education.

- 1 Section 2. Laws shall be enacted providing for a state council
- 2 of education appointed by the governor. The council shall have
- 3 the powers and duties prescribed by law. Its chief executive
- 4 officer shall be the commissioner of education.

### Note.

Source: This is entirely new matter.

### Support of Educational System.

- 1 Section 3. Laws shall be enacted making adequate provision,
- 2 by appropriation and through general or special forms of taxa-
- 3 tion, for the effective and equitable support of the public educa-
- 4 tional system of the commonwealth.

Art. XI, Secs. 4, 5, 6

Note.

Source: This is entirely new matter.

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### No Appropriations to Sectarian Institutions.

- 1 Section 4. Money raised for the support of the public educa-
- 2 tional system of the commonwealth shall not be appropriated to
- 3 or used for the support of any sectarian school or institution.

Note.

Source: Article X, section 2:

“No money raised for the support of the public schools of the commonwealth shall be appropriated to or used for the support of any sectarian school.”

Changes in Substance: The principle set forth in the present constitution as applicable to money raised for the support of the public schools is extended to cover money raised for the support of the educational system of the commonwealth. That system is described in section 1 of this article.

Changes in Style: The Commission's rules of style have been followed.

---

### State School Fund.

- 1 Section 5. The net receipts from state forests, unclaimed
- 2 funds derived by the commonwealth either by escheat or other-
- 3 wise, and money or property designated for the purpose and
- 4 derived from any source shall constitute the state school fund
- 5 to be used only for the benefit of the public educational system
- 6 of the commonwealth in such manner as may be prescribed by
- 7 law.

Note.

Source: This is entirely new matter.

---

### Basic Instruction to be in English.

- 1 Section 6. The basic instruction in public and private schools
- 2 shall be given in the English language and from English texts.

Note.

Source: This is entirely new matter.

The Commission believe that while the teaching of the classics and of foreign languages should be encouraged rather than discouraged, it is a matter of vital importance

## Art. XII, Sec. 1

to prevent the establishment and maintenance of schools the real object of which is to discourage the knowledge and use of the English language by the children of parents who have come to America to obtain a livelihood and to secure a freedom denied them in the country of their origin.

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## ARTICLE XII.

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### SOCIAL WELFARE AND PUBLIC HEALTH.

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#### Preliminary Note.

The Commission believe that a constitution should be more than a frame of government and a grant of powers with a collection of prohibitions on enumerated specific exercises of power. We believe that, on the one hand, it should contain a statement of the fundamental rights of the individual, which, in the language of our Bill of Rights, "shall forever remain inviolate," and on the other, a declaration of the positive obligations which the people recognize rests on them as a body politic.

The framers of our first constitution, that of 1776, recognized and specifically set forth in the constitution the fundamental duty of organized society to provide for the education of youth. Each succeeding constitution has set forth this obligation. It is no new departure, therefore, to state in the constitution an obligation which the social consciousness of the people recognizes as resting on them and which, therefore, their government should, as their agent, have the duty to perform. The Commission believe that the growing realization of the duty of the commonwealth to care for those residents who cannot care for themselves on account of physical or mental infirmity or other misfortune, and its duty to employ at useful labor and instruct those convicted of crime, not only justifies but requires expression in our fundamental law.

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#### Charitable Institutions and Agencies.

- 1 Section 1. Laws shall be enacted providing for the mainten-
- 2 ance of an efficient system of institutions and agencies to care
- 3 for residents of the commonwealth who cannot care for and
- 4 support themselves on account of physical or mental infirmities
- 5 or other misfortune and to prevent such infirmities and mis-
- 6 fortunes so far as possible.



## Art. XII, Secs. 2, 3, 4

## Note.

Source: This is entirely new matter. As explained in the preliminary note to this article, it states a principle which should, in the opinion of the Commission, find expression in the constitution of the commonwealth. The details of the system are necessarily left to be prescribed by law. It will be noted that the institutions and agencies mentioned may be either public or private.

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## Penal and Correctional Institutions.

1 Section 2. Laws shall be enacted providing for the mainten-  
2 ance of an efficient system of penal and correctional institutions  
3 and agencies.

## Note.

Source: This is entirely new matter. Like the preceding section, it expresses an important principle, leaving the details to be prescribed by law.

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## Employment and Treatment of Prisoners.

1 Section 3. Humanity, sound public economy and just con-  
2 sideration for the innocent dependents of persons deprived of  
3 their liberty, by judgment, decree or sentence of any court, re-  
4 quire that all such persons should, during their imprisonment,  
5 be afforded an opportunity for remunerative labor, and the condi-  
6 tions of imprisonment shall always be such as to promote the  
7 physical, mental and moral welfare of the prisoners.

## Note.

Source: This is entirely new matter. It asserts a principle which the Commission believe to be not only ethically sound but of great practical importance.

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## Supervision of Charitable, Correctional and Penal Institutions and Agencies.

1 Section 4. Charitable, correctional and penal institutions and  
2 agencies and other institutions and agencies for the care, relief  
3 or treatment of persons having physical or mental infirmities,  
4 shall be subject to governmental inspection and supervision con-  
5 trol. The power to enforce the law with respect to such institu-  
6 tions shall be vested in one or more departments of the state  
7 government or in such agencies as may be prescribed by law.

Art. XII, Sec. 5; Art. XIII

### Note.

Source: This is entirely new matter, imposing upon the law-making authority the duty of vesting in one of the departments of the state government the power to inspect and control the institutions named. In the judgment of the Commission this is necessary if the principles contained in the two preceding sections are to be followed not simply in theory but in practice.

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### Health.

1 Section 5. The protection and promotion of the public health  
2 under modern social, economic and industrial conditions, is  
3 essential to the well-being of the commonwealth and is hereby  
4 declared to be a primary duty of government.

### Note.

Source: This is entirely new matter. In the opinion of the Commission it expresses a principle of fundamental importance to the welfare of the public.

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## ARTICLE XIII.

### MUNICIPALITIES.

#### Preliminary Note.

Source: Under this section we have gathered all provisions to local government. In the present constitution these provisions are found in

Article IX—Taxation and Finance.

Article XIII—New Counties.

Article XIV—County Officers.

Article XV—Cities and City Charters.

The growth of large cities and the increasing necessity of public works which must be built by local governments, especially cities, make necessary the complete revision of existing constitutional provisions.

Your Commission have devoted much time and thought to the subjects included in this article and there is no part of the revised constitution here proposed in which will be found a larger proportion of sections which contain entirely new matter.

## Art. XIII, Sec. 1

## Arrangement:

## Creation.

Definition—section 1.

Classification—section 2.

Proportional representation—section 3.

New counties—section 4.

City charters—section 5.

Cities and boroughs, creation and change of boundaries—section 6.

## Organization.

Appointive municipal officers—section 7.

Accountability of municipal officers—section 8.

County officers—section 9.

Election of certain county officers—section 10.

County commissioners and county auditors—section 11.

Philadelphia prothonotary—section 12.

Residence of county officers—section 13.

Certain county officers to have offices in county seat—section 14.

Compensation of county officers—section 15.

Salaries and expenses of county officers in a county co-extensive with a city—section 16.

## Financial Provisions.

Municipal borrowing capacity—section 17.

Duration and payment of debts—section 18.

Debts other than for money borrowed—section 19.

Municipalities not to pledge credit—section 20.

## Improvements.

Special commissions prohibited—section 21.

Assessment of benefits for public improvements—section 22.

Extent of land permitted to be taken for public improvements—section 23.

Zoning of municipalities—section 24.

Contracts between municipalities—section 25.

## Miscellaneous Provisions.

Street passenger railways in cities or boroughs—section 26.

One place of paying taxes in cities and boroughs—section 27.

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Definition.

- 1 Section 1. Municipalities shall be counties, cities, boroughs,  
2 townships, school districts, poor districts and other divisions of  
3 the commonwealth for the purpose of local government.

## Art. XIII, Sec. 2

## Note.

Source: This is entirely new matter. The word "municipality" occurs so frequently in the proposed constitution, and especially in this article, that a definition is plainly imperative. We have enumerated the present forms of municipality and have allowed for the creation of other forms in the concluding words of the proposed section.

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Classification.

- 1 Section 2. Municipalities may be classified upon the basis of  
2 conditions requiring special regulation. The classification of  
3 municipalities according to population shall not divide cities,  
4 counties or school districts into more than seven classes or other  
5 municipalities into more than five classes. A class must contain  
6 more municipalities than one except where the basis of classi-  
7 fication is population or the coincidence of the boundaries of two  
8 or more municipalities.  
9 A law otherwise general shall not be local because applicable  
10 only to municipalities adopting it.

## Note.

Source: This is entirely new matter. The present constitution, in Article III, section 7, and the proposed constitution, in Article III, section 20, forbid special legislation regulating the affairs of a municipality. The supreme court has held that a law applicable to an entire class of municipalities is not special if there is a proper relation between the purpose of the law and the basis of classification. (*Wheeler v. Philadelphia*, 77 Pa. 338).

There is, however, grave doubt as to the extent to which such classification is permissible, especially classification based upon population, which is by far the commonest form. The effect of the decisions of the supreme court has been to restrict the division of cities to three classes. A greater number of classes has been permitted for other municipalities, but the precise number permissible for a given purpose is always doubtful until the question has been judicially determined.

The Commission, therefore, recommend this section, which states in terms the number of classes according to population which may be created. The number for cities is recommended to be considerably increased.

The words, "and the coincidence of the boundaries of two or more municipalities shall be deemed a condition requiring special regulation," have been inserted to place beyond possi-

## Art. XIII, Secs. 3, 4

bility of question the right of the law-making authority to treat the problem of local government arising where, as in Philadelphia, the boundaries of the county and the city coincide, as a problem of county government requiring, for its adequate treatment, a governmental organization adapted to that condition.

The third paragraph is recommended to be inserted out of caution. The Commission believe that it should be possible to enact a law regulating the affairs of such municipalities as might adopt it by ordinance or by popular vote, and that such a law should not be open to the objection that it is special because of its tendency to destroy uniformity or to the objection that it delegates legislative power; but unless the suggested sentence is incorporated in the constitution, it is doubtful whether such a law would be sustained by the supreme court.

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### Proportional Representation.

- 1 Section 3. Proportional representation may be prescribed by
- 2 law for the election of representative bodies in municipalities in
- 3 which that method of election shall be approved by a majority of
- 4 the electors voting on the question.

#### Note.

Source: This is entirely new matter. The Commission believe that such laws would be valid under the present constitution, but they recommend that any dispute on the question should be prevented by the provisions proposed.

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### New Counties.

- 1 Section 4. A new county shall not be established if it would
- 2 have less than three hundred square miles and fifty thousand
- 3 inhabitants or if a line thereof would pass within ten miles of
- 4 the boundary of the county seat of a county proposed to be
- 5 divided or if its establishment would reduce another county be-
- 6 low such area or population. A new county shall not be estab-
- 7 lished without the consent of a majority of the electors resident
- 8 within the proposed boundaries thereof voting on the question.

#### Note.

Source: Article XIII, section 1:

"No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be

## Art. XIII, Sec. 5

formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided."

Changes in Substance: (1) Because of the increase in the state's population since 1874, the Commission recommend that four hundred square miles and twenty thousand inhabitants, which are the provisions of the present constitution, be changed to three hundred square miles and fifty thousand inhabitants.

(2) The last sentence contains new matter. The purpose of the provision is to prevent the formation of a new county by act of assembly without the consent of those most affected.

Clarifying Changes: The present constitution forbids the line of a new county to pass "within ten miles of the county seat of any county proposed to be divided." The Commission have adopted the construction put upon this clause by the attorney-general in 1895 (County Seat, 4 D. R. 319). by using the words "boundary of the county seat."

Changes in Style: The Commission's rules of style have been followed.

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### City Charters.

- 1 Section 5. Laws may be enacted giving to cities or to cities
- 2 of a particular class, authority to frame, adopt and amend
- 3 charters for their organization and government.

#### Note.

Source: This is entirely new matter.

The Commission do not recommend a constitutional provision giving this power outright to cities because it is impossible to frame such a provision so as to avoid doubt of its meaning. The organization and government of a city must, of course, conform to the laws of the commonwealth and any attempt to define in the constitution exactly where the powers of the commonwealth shall end and those of the city shall begin will give rise to endless litigation. The determination of the cities' powers of home rule must be a carefully drawn statute, in which there will be a place for details not suitable for a constitution.

The section is inserted to overcome the present constitutional objection to such legislation, which is that it would be a delegation of legislative power and therefore unconstitutional.

## Art. XIII, Secs. 6, 7

## Creation and Change of Boundaries of Cities and Boroughs.

- 1 Section 6. A city or borough shall not be established or its  
2 boundaries changed except with the consent of a majority of the  
3 electors resident within the proposed boundaries voting on the  
4 question and of a majority of the electors in the proposed added  
5 or excluded area voting on the question.

## Note.

Source: This is entirely new matter recommended to be adopted to prevent the establishment of a city or borough, or the change of a city's or borough's boundaries, without the consent of those most affected.

There is a partial recognition in the present constitution of the principle that the electors affected should have a voice in deciding whether their local government should be changed to that of a city or borough. Article XV, section 1, provides: "Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same."

We recommend the omission of Article XV, section 1, of the present constitution, because its provisions have been covered by the much broader recognition of the principle of "home rule" embodied in the section here proposed.

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Appointive Municipal Officers.

- 1 Section 7. Appointive officers in counties, cities, boroughs  
2 and townships shall be appointed by an officer or agency of the  
3 municipality as prescribed by law, except as in this constitution  
4 otherwise provided.

## Note.

Source: This is entirely new matter.

The adoption of this section will prevent the enactment of a law vesting in the governor or other officer of the state government the power to appoint municipal officers. So-called "ripper" legislation, destroying the existing government of a county, city, borough or township, and vesting its power in a commission appointed by the governor, will be impossible.

The words "except as in this constitution expressly provided" are necessary because of the provisions of Article V, section 19, as proposed, which permits the judges to appoint park commissioners and certain other officers, who are appointive officers of the municipality.

Art. XIII, Secs. 8, 9

### Accountability of Municipal Officers.

1 Section 8. Laws shall be enacted providing for the strict ac-  
2 countability of municipal officers, as well for the fees which  
3 may be collected by them as for all public or municipal moneys  
4 which may be paid to them.

Note.

Source: Article XIV, section 6:

"The general assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them."

Changes in Substance: The provision is applied to the officers of all municipalities and not only to those of counties, townships and boroughs, as in the present constitution.

Changes in Style: The Commission's rules of style have been followed.

### County Officers.

1 Section 9. The officers of a county shall be three commissioners,  
2 three auditors or a controller, a sheriff, a coroner, a prothono-  
3 tary, a register of wills, a recorder of deeds, a treasurer, a sur-  
4 veyor, a clerk of the orphans' court, a clerk of the court of  
5 quarter sessions of the peace and of the court of oyer and termi-  
6 ner and general jail delivery, a district attorney, and other  
7 officers prescribed by law.  
8 In a county co-extensive with a city or included therein, any  
9 constitutional county office may be abolished by law and its  
10 duties and powers may be transferred to a city officer or officers.

Note.

Source: Part of Article XIV, section 1:

"County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors, or controllers, clerks of the courts, district attorneys, and such others as may from time to time be established by law; \* \* \*."

Changes in Substance: The last paragraph is new. In Philadelphia, or in any other county which may become co-extensive with a city or included therein, the amalgamation of certain city and county offices may be expedient and should be permitted by the constitution.



## Art. XIII, Sec. 10

Clarifying Changes: (1) Article XIV, section 1, of the present constitution, uses throughout, the plural. It states that "county officers shall consist of sheriffs, coroners, registers of wills," etc. Standing by itself, this language would permit provision to be made by law for more than one sheriff, one coroner and one register of wills. It is probable, however, that this result was not contemplated by the draftsman and would not be permitted by the courts. It is apparently certain that there can be only one register of wills, because Article V, section 22, of the present constitution, provides that in counties having separate orphan's courts "the register of wills shall be clerk of such court."

(2) In Article XIV, section 1, of the present constitution, the term "clerks of courts," which is there used instead of the clerks of the two courts designated in the proposed section creates a doubt on more than one matter of importance. Are the clerks of the courts referred to the clerks of all county courts existing in 1874; or are they the clerks of all county courts which are or may hereafter be created by law; or are they the clerks of the county courts designated in the constitution? Finally, what is the exact definition of "a county court"? Is it any court in the county—as one of the district peace courts proposed by the Commission? or is it only a court the boundaries of the jurisdiction of which are co-terminous with the boundaries of the county; and if so, is the municipal court in Philadelphia a county court? All these uncertainties will be avoided and the probable intent of the present constitution may be carried out by employing the language of the section here suggested.

Changes in Style: (1) The word "three" has been inserted before "commissioners" and before "auditors" because that is the number of each provided for by the constitution. (Article XIV, section 7, of the present constitution; section 11 of the article here proposed.)

(2) The provision that a sheriff or a treasurer cannot succeed himself has been transferred to section 10 of this article.

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### Election of Certain County Officers.

- 1 Section 10. Except as in this constitution expressly provided,
- 2 county officers shall be chosen by the electors of the county.
- 3 Each shall hold office for four years from the first Monday of
- 4 January succeeding his election or until his successor shall
- 5 qualify. Vacancies shall be filled as prescribed by law. The
- 6 sheriff and the treasurer shall not be eligible for the succeeding
- 7 term.

## Art. XIII, Sec. 11

## Note.

Source: (1) Article XIV, section 2:

"County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law." (Amendment of November 2, 1909.)

(2) Part of Article IV, section 1:

"\* \* \* no sheriff or treasurer shall be eligible for the term next succeeding the one for which he may be elected."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### County Commissioners and County Auditors.

1 Section 11. Three county commissioners shall be elected in  
2 each county in the year 1923, one to serve for two years and two  
3 to serve for four years. Every four years thereafter, two com-  
4 missioners shall be elected to serve for four years. In the year  
5 1925 and every four years thereafter, one commissioner shall be  
6 elected to serve for four years. An elector shall vote for one  
7 candidate for commissioner except in the year 1923, when he  
8 shall vote for one candidate to serve for two years and for one  
9 candidate to serve for four years. A vacancy in the office of  
10 commissioner shall be filled by the governor by the appointment  
11 of an elector of the county who has voted for the commissioner  
12 whose place is to be filled. In a county having auditors, they  
13 shall be elected and vacancies in the office of auditor shall be  
14 filled as in the case of commissioners.

## Note.

Source: Article XIV, section 7:

"Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioner or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled." (Amendment of November 2, 1909.)

## Art. XIII, Sec. 12

Changes in Substance: (1) Under the present constitution, three commissioners are elected every four years by a system of minority representation. Each elector votes for two candidates and the commissioners all go out of office at the same time. The Commission propose to establish a system which preserves the principle of minority representation while providing that there would always be at least one commissioner holding over after each municipal election.

(2) The Commission suggest that vacancies should be filled by the governor instead of by the court of common pleas. This is in accordance with the principle embodied in Article V, section 19, as proposed which forbids the exercise of such appointive power by the courts.

Changes in Style: The Commission's rules of style have been followed.

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Philadelphia Prothonotary.

1 Section 12. The prothonotary of the county of Philadelphia  
 2 shall be appointed by the judges of the court of common pleas  
 3 of the county. He shall hold office for three years but may be  
 4 removed at the pleasure of the court. He shall appoint assist-  
 5 ants only with the approval of the court. The salaries of the  
 6 prothonotary and of his assistants shall be paid by the county.

Note.

Source: Article V, section 7:

"For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket, which shall contain the judgments and liens of all the said courts, as is or may be directed by law. "

Changes in Substance: The provision in the present constitution relating to the dockets of the several courts of common pleas is omitted because of the recommendation that there shall be a single court of common pleas in Philadelphia county. (See Article V, section 10 as proposed.)

Changes in Style: The provisions in regard to salaries and fees have been considerably shortened because of the proposed new section, section 15 of this article.

## Art. XIII, Secs. 13, 14

## Residence of County Officers.

- 1 Section 13. An appointive county officer shall have been a  
2 citizen and resident of the county for one year before his ap-  
3 pointment, if the county has been so long established; but if it  
4 has not been so long established, then within the limits of the  
5 county or counties out of which it has been taken.

## Note.

Source: Article XIV, section 3:

"No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken."

Changes in Substance: None.

Clarifying Changes: The present constitution probably refers to county officers only, although it is not so stated. The proposed section makes this point clear.

Changes in Style: The Commission's rules of style have been followed.

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Certain County Officers to Keep Offices in County Seat.

- 1 Section 14. The prothonotary, the clerk of the orphans' court,  
2 the clerk of the court of quarter sessions of the peace and of  
3 the court of oyer and terminer and general jail delivery, the  
4 recorder of deeds, the register of wills, the surveyor, and the  
5 sheriff shall keep their offices in the county seat.

## Note.

Source: Article XIV, section 4:

"Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers."

Changes in Substance: None.

Clarifying Changes: The singular has been used instead of the plural, and the clerks of the courts have been more precisely designated. This conforms to the language of section 9 of this article.

Changes in Style: "County seat" has been substituted for "county town," to conform to popular usage and to the language of section 4 of this article.

## Art. XIII, Secs. 15, 16

## Compensation of County Officers.

- 1 Section 15. County officers shall be paid only by salary for  
 2 services performed for the state government or for the county  
 3 or for any other official service. Except as otherwise provided  
 4 in this constitution, such salaries shall be prescribed by law.  
 5 Fees received by county officers shall be paid into the treasury  
 6 of the county or into the state treasury as prescribed by law.

## Note.

Source: Article XIV, section 5:

"The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or state, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him."

Changes in Substance: (1) Under the present constitution, officers in counties with a population of more than 150,000 must be paid by salary. The proposed section extends this principle to the officers of all counties.

(2) The present constitution does not prevent a county officer from receiving, in addition to his salary, a commission for services to the state government, such as the collection of state taxes. (*Phila. v. Martin*, 125 Pa. 583; *Phila. v. McMichael*, 208 Pa. 297.) The proposed section forbids the payment of such commissions.

(3) Under the present constitution, the compensation of county officers can be fixed only by statute. In section 16 of this article, an exception to this rule is made in the case of a county co-extensive with a city or included therein. In the section here proposed, we have covered this exception in section 16 by the words: "except as otherwise provided in this constitution."

(4) The final provision of Article XIV, section 5, of the present constitution, with respect to the amounts of the salaries of the officers of counties with more than 150,000 in population, is omitted as obsolete.

Changes in Style: The section has been entirely rewritten and the Commission's rules of style followed.

### Salaries and Expenses of County Officers in a County Co-Extensive With a City.

- 1 Section 16. In a county co-extensive with a city or included  
 2 therein, the county treasury and the city treasury shall be united  
 3 in a single city treasury. The funds and obligations of the

## Art. XIII, Sec. 17

4 county shall be those of the city. The officers of the state govern-  
5 ment or of the county whose salaries or the expenses of whose  
6 offices or courts shall be paid in whole or in part by the city.  
7 shall at such times as may be required in the case of city offices  
8 submit to the chief executive of the city estimates of their needs.  
9 The city shall control the amount to be expended for such sal-  
10 aries and expenses except salaries prescribed by law and ex-  
11 penses of the courts of common pleas and of the orphans courts.

## Note.

Source: This is entirely new matter.

The purpose of the proposed section is to control what is known as the "mandamus evil" in Philadelphia in so far as it arises from the salaries and expenses of county officers. In the present constitution there is no prohibition against these mandamuses. Although the city council must raise the money to pay the bills, it has no control over the amounts of the bills.

The Commission therefore recommend the adoption of the proposed section. With certain exceptions it places county officers on the same basis as city officers in respect to appropriations from the city treasury. The state government may still prescribe the salaries of county officers and judges. The court of common pleas and the orphans' court must submit estimates of the expenses of their offices and are not deprived of the power of mandamus.

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Municipal Borrowing Capacity.

1 Section 17. A municipality may incur debt by borrowing  
2 money as prescribed by law if its aggregate debt for borrowed  
3 money would not then exceed the sum of:

4 (a) Ten per centum of the assessed value of the property  
5 therein taxable by or for the benefit of the municipality.

6 (b) An amount equal to that capital sum which, at the legal  
7 rate of interest and at such amortization charges as shall be  
8 prescribed by law would yield an amount equal to the net revenue  
9 derived by the municipality during the last preceding fiscal year  
10 from its public improvements.

11 (c) The amount of debt secured by liens on public improve-  
12 ments and imposing no obligation on the municipality, if the net  
13 revenue derived from such improvements has not been taken into  
14 account under paragraph (b).

15 (d) So much of any debt incurred within five years to acquire  
16 public improvements as shall be likely to be allowable under  
17 paragraph (b) within six years thereafter, if the net revenue de-  
18 rived from such improvements has not been taken into account  
19 under paragraph (b), and if such debt has not been taken into  
20 account under paragraph (c).

## Art. XIII, Sec. 17

21 (e) The par value of the evidences of debt of the municipality  
22 owned by it and pledged toward the payment of the principle of  
23 its debt.

24 (f) The amount of cash and the market value of investments  
25 owned by the municipality and the amount of the collectible  
26 debts due or to fall due owned by the municipality, in so far as  
27 such assets are pledged toward the payment of the principal of  
28 its debt.

29 (g) Eighty per centum of the amount which it is estimated  
30 as prescribed by law that the municipality will receive within  
31 five years from assessments against property benefited by pub-  
32 lic improvements if such amount is pledged toward the payment  
33 of the principal of its debt and if it has not been taken into ac-  
34 count under paragraph (f).

35 An indebtedness incurred by a municipality in excess of three  
36 per centum of the assessed value of the taxable property therein  
37 shall be approved by a majority of the electors thereof at a pub-  
38 lic election held as prescribed by law.

39 The term "incur debt," as used in this section, shall include an  
40 incurrence of new indebtedness, an extension of the maturity of  
41 a debt, a deferment of the payment of a debt, a change in the  
42 form of a debt, and an assumption of a debt.

43 A debt shall be deemed to be incurred at the time the obli-  
44 gation to pay is entered into or the contract to extend, defer,  
45 change or assume an existing debt is made.

## Note.

Source: (1) The first paragraph of Article IX, section 8:

"The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, but the debt of the city of Philadelphia may be increased in such amount that the total city debt of said city shall not exceed ten (10) per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property<sup>1</sup>, without the consent of the electors thereof at a public election in such manner as shall be provided by law. In ascertaining the borrowing capacity of the said city of Philadelphia, at any time, there shall be excluded from the calculation and deducted from such debt so much of the debt of said city as shall have been incurred, and the proceeds thereof invested, in any public improvement of any character which shall be yielding to the said city an annual current net revenue. The amount of such deduction shall be ascertained by capitalizing the annual net revenue from such improvement during the year immediately preceding the time of such ascertainment; and such capitalization shall be estimated by ascertaining the principal amount

## Art. XIII, Sec. 17

which would yield such annual, current net revenue, at the average rate of interest, and sinking fund charges payable upon the indebtedness incurred by said city for such purposes, up to the time of such ascertainment. The method of determining such amount, so to be deducted, may be prescribed by the general assembly. \* \* \* (Amendment of November 4, 1918.)

## (2) Article IX, section 15:

"No obligations which have been heretofore issued or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of water-works, subways, underground railways or street railways, or the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. \* \* \* Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law." (Amendment of November 4, 1913.)

Preliminary Explanation: The limits, if any, which should be placed on the borrowing power of municipalities is a subject of great difficulty and perplexity. As originally promulgated, the constitution limited the debt of all municipalities to seven per centum upon the assessed value of its taxable property. Successive amendments have been passed to meet, as they arose, now a condition in Philadelphia, again a condition in Pittsburgh or in another municipality, until at present the constitution presents two sets of provisions; one relating to Philadelphia and the other to the rest of the state, neither of which can be said to represent the result of any scientific study of the subject. For the existing complicated system, the result of the many amendments of recent years, the Commission has here attempted to present a single system applicable to all municipalities of the state, which we believe will be found easy to understand and apply and which will, on the one hand, give to municipalities sufficient borrowing power to meet the modern requirements for public works and, on the other, protect the people of the commonwealth from the unfortunate results of reckless municipal financing.



## Art. XIII, Sec. 17

Changes in Substance: The last part of the introductory paragraph to the section as proposed prescribes:

"A municipality may incur \* \* \* if its aggregate debt for borrowed money would not then exceed the sum of \* \* \*"

In the present constitution the method of setting forth the provisions of the section is to state that the borrowing capacity shall not exceed ten per centum of the assessed value of property, and then to declare that certain debts, as debts incurred for public works, under the conditions set forth are not to be regarded as debts for the purpose of the calculation. The awkwardness of this method of statement has increased the confusion and uncertainty which has always surrounded the whole question of the borrowing power of municipalities under existing constitutional provisions.

The principle underlying the provisions of the present constitution and of the section herein suggested is that a municipality may impose, in fact, on its taxpayers, the obligation to pay interest and amortization charges on a sum not exceeding ten per centum of the assessed value of the taxable value of the property within the municipality. The actual debt may exceed this sum by any amount provided there are assured revenues of the municipality from which the excess can be paid. The form of statement herein suggested corresponds to the facts. It is declared that a municipality may incur debt if its aggregate debt would not then exceed the sum of the several clauses set forth, of which ten per centum of the assessed value of real property in the municipality is one.

Clause (a) as proposed provides:

"Ten per centum of the assessed value of the property therein taxable by or for the benefit of the municipality."

At present the limit on the amount of indebtedness that may be incurred by a municipality is ten per centum upon the assessed value of the taxable property therein. In municipalities other than Philadelphia, any increase above seven per centum of the assessed value of the taxable property must be assented to by three-fifths of the electors voting on the question. Under clause (a) as proposed, the assent of a majority of the electors voting on the question is all that is required.

The words "or for the benefit of" are inserted in clause (a) so as to take care of any municipality for which the state government, or some other authority except the municipality itself, actually levied the tax. The four mill tax in Pennsylvania on certain "money at interest" and "vehicles to hire," was levied by the legislature, and not by any of the municipalities benefiting therefrom. As it is quite possible that at some future time taxes for municipal purposes, on all or a portion of the property included in the basis for determining municipal debt limits, might be levied by some authority other than the municipalities themselves, it is de-

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sirable that the constitution clearly indicate that the property, on which taxes are so levied is to be used as a basis for calculating the debt limits of the municipalities.

Clause (b) as proposed provides:

"An amount equal to that capital sum which, at the legal rate of interest and at such amortization charges as shall be prescribed by law would yield an amount equal to the net revenue derived by the municipality during the last preceding fiscal year from its public improvements."

Under the present constitution in ascertaining the amount of existing indebtedness for the purpose of calculating the borrowing power at any time, it is permissible to disregard under certain conditions any indebtedness incurred in the past for public improvements which are yielding an annual current net revenue. The conditions under which such indebtedness can be disregarded in the calculation are not the same for the city of Philadelphia as for other municipalities.

In municipalities other than Philadelphia, in order to disregard a prior indebtedness in calculating the "existing indebtedness," the prior indebtedness must have been incurred "for the construction or acquisition of waterworks, subways, underground railways or street railways, or the appurtenances thereof"; while in Philadelphia the prior indebtedness may have been incurred for "any public improvement."

Again, in municipalities other than Philadelphia, such indebtedness must have been incurred for the acquisition of properties which for a period of five years, either before or after their acquisition, have been yielding a net revenue sufficient to pay the interest and sinking fund charges on such indebtedness; while in Philadelphia the improvement for which such indebtedness is incurred must have been yielding an annual current net revenue to the city for the year immediately preceding the time the calculation is made.

Furthermore, in any municipality, except Philadelphia, no portion of the indebtedness incurred for the acquisition of the properties can be deducted from the present indebtedness of the municipality for the purpose of calculating the existing borrowing capacity unless the annual net revenue has been sufficient to pay all the interest and sinking fund charges on the indebtedness incurred for the improvement; while in Philadelphia, if the operation of the improvement has during the preceding year yielded to the city any current net revenue, there may be deducted from the total indebtedness of the city, for the purpose of calculating its borrowing capacity, a capital sum ascertained by determining the amount which will yield at the average rate of interest and sinking fund charges payable by the city, the annual current revenue which the city is receiving from the operation of the improvement.

Clause (b) as proposed is a substitute for these confused and complicated provisions. The principle underlying the

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clause is that where there is a public improvement which is actually yielding a net revenue, then that capital sum which would yield an equal revenue at the current rate of interest and amortization charges can safely be added to the assessed value of the taxable real estate in order to ascertain the amount of the debt limit of the municipality. The kind of public improvement from which the revenue is derived should make no difference, neither should it be stipulated that the public improvement which is yielding a net revenue should have been acquired by the expenditure of borrowed money. Therefore, in drafting clause (b), these requirements found in the existing constitution have been omitted.

Clause (c) as proposed provides:

"The amount of debt secured by liens on public improvements and imposing no obligation on the municipality, if the net revenue derived from such improvements has not been taken into account under paragraph (b)."

This clause expresses the principle that there should not be any limitation on the amount of those debts of municipalities which are secured by liens on public improvements and impose no liability on the municipality, and that the existence of such debts should not limit in any manner the borrowing capacity of a municipality. In the present constitution this principle is recognized but is applied only to municipalities other than Philadelphia (Article IX, section 15 of the present constitution.) In clause (c) as worded, the principle is extended to Philadelphia by being made applicable to all municipalities.

Clause (d) as herein proposed provides:

"So much of any debt incurred within five years to acquire public improvements as shall be likely to be allowable under paragraph (b) within six years thereafter, if the net revenue derived from such improvements has not been taken into account under paragraph (b), and if such debt has not been taken into account under paragraph (c)."

In the present constitution, under Article IX, section 15, any municipality other than Philadelphia, in computing its debt for the purpose of ascertaining its remaining borrowing capacity, can deduct from its indebtedness any debt incurred to acquire a public improvement which, for a period of five years before or after it has been acquired by the municipality has yielded a net revenue sufficient to pay the interest and sinking fund charges on such debt.

Under the clause as proposed, the general principle underlying this provision is recognized but the method of treatment is wholly different and involves the following:

(1) It makes a uniform rule for all municipalities. (Philadelphia is not excepted.)

(2) It applies to revenue derived from any public improvement and not merely to revenue derived from water-works and transportation facilities.

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(3) The public improvement need not have yielded, during a period of five years preceding the calculation, a net revenue sufficient to pay the legal rate of interest and sinking fund charges on money borrowed for its acquisition, but, on the other hand, the public improvement must be likely to yield a revenue within six years from the incurrence of the debt contracted to acquire it. Thus, under the provisions of clause (b), as proposed, if a municipality desires to acquire a public utility such as a trolley system, or build waterworks, without encroaching on its borrowing capacity for other purposes, it could borrow for the purposes of the acquisition no more than a sum which would yield, at the legal rate of interest and amortization charges, an annual net income equal to what, in the opinion of a state-wide agency, would be the current annual net revenue within six years.

Clause (c) as proposed provides:

"The par value of the evidences of debt of the municipality owned by it and pledged toward the payment of the principal of its debt."

This clause expresses the principal that where a municipality owns some of its own debt, that municipality has, to all intents and purposes, paid that debt. In such a case, the asset and the liability merge or offset each other and in all computations of debt limits the securities owned should offset or support the debt to the exact amount at which such securities are counted as a liability.

The present constitution makes no express reference to this subject, but the Supreme Court has decided that municipal bonds held in the sinking fund are no longer debts of the municipality for the purpose of calculating its borrowing capacity under the provisions of the constitution. (*Brooke v. Philadelphia*, 162 Pa. 123, 1894; *Bruce v. Pittsburgh*, 166 Pa. 152, 1895.)

Clause (f) as herein proposed provides:

"The amount of cash and the market value of investments owned by the municipality and the amount of the collectible debts due or to fall due owned by the municipality, in so far as such assets are pledged toward the payment of the principal of its debt."

The subject of this clause is not referred to in the present constitution. As herein proposed, it is another application of the principle that the borrowing power of a municipality may be increased by the amount of its assets available and pledged to meet existing indebtedness.

In *Brooke v. Philadelphia*, 162 Pa. 123, 1894, the supreme court held that securities in the sinking fund, other than the bonds of the municipality, are merely an asset of the city and do not operate to reduce the debt or increase the borrowing capacity of the municipality. The clause as proposed would increase the borrowing capacity of the municipality by the market value of such securities.

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Clause (g) as proposed provides:

"Eighty per centum of the amount which it is estimated as prescribed by law that the municipality will receive within five years from assessments against property benefited by public improvements, if such amount is pledged toward the payment of the principal of its debt and it has not been taken into account under paragraph (f)."

This is entirely new matter. It is based on the same principle as clause (f). Under Article XIII, section 22, laws may be enacted authorizing assessments against properties which are especially and particularly benefited by public improvements. As explained in the note appended to that section, its object is to enable large public improvements to be made by assessing a part of the cost on the property specially benefited thereby. Where, in other jurisdictions, this system of carrying on public improvements is adopted, it has been found in practice to be desirable to make the benefits assessed payable over a series of years. Therefore, the suggested provision in the section here proposed that the assessments to be paid within five years is made the basis of the calculation. As the municipality under the proposed wording of the clause is the judge of the amount of the assessments which will be received, we have inserted, as a precaution against over-estimates, the provision that only eighty per centum of the amount which it is estimated that the municipality will receive is to be taken into consideration.

The second paragraph in the section as proposed provides:

"An indebtedness incurred by a municipality in excess of three per centum of the assessed value of the taxable property therein shall be approved by a majority of the electors thereof at a public election held as prescribed by law."

The corresponding provision in Article IX, section 8 of the present constitution provides that the limit of debt-incurring power without the consent of the electorate is two per centum.

The third paragraph of the section as proposed provides:

"The term 'incur debt,' as used in this section, shall include an incurrence of new indebtedness, an extension of the maturity of a debt, a deferment of the payment of a debt, a change in the form of a debt, and an assumption of a debt."

To avoid the uncertainty and the resulting litigation which results from the uncertainty of exactly what constitute an incurrence of a new debt or increase in indebtedness under the present constitution, it is necessary that the words "incur debt" as used in this proposed section shall be defined. We have intentionally made the definition as inclusive as possible.

Under the wording of the section as proposed, if a municipality desired to refund its debt, the issuing of the new obligations in place of the old would not increase the

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debt of the municipality, but the act would be an incurrence of a debt and if the amount involved was greater than one-quarter of one per centum of the assessed value of the real estate, the assent of the electorate would have to be obtained. This result, it is submitted, is correct in principle. Questions pertaining to the refunding of a loan are often as important as those involved in the original issue of the loan.

The final paragraph of the section as proposed provides:

"A debt shall be deemed to be incurred at the time the obligation to pay is entered into or the contract to extend, defer, change or assume an existing debt is made."

This paragraph has been incorporated in the section to avoid continuance of the uncertainty and confusion which exists today in practice as between different municipalities in respect to the time when the debt is incurred. In drafting this paragraph, it would be possible to make the time of incurring the debt (a) when the ordinance placing the question before the electorate is adopted, or (b) when the electorate ratify the increase, or (c) when the ordinance is adopted directing the proper officers to enter into the indebtedness on behalf of the municipality, or (d) when the obligation to pay is actually incurred. Under the provisions of the paragraph suggested, the last of these possibilities has been adopted. Under its provisions, if the electorate authorize two loans at successive times which in the aggregate exceed the limit of debt-incurring power at the time, the one last authorized, if by itself it does exceed the limit, may be negotiated, if no action to incur indebtedness has been entered into under the first loan.

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Duration and Payment of Debts.

- 1 Section 18. A municipality shall not incur a debt maturing  
2 more than fifty years thereafter. The aggregate amount of prin-  
3 cipal and interest payable in respect of a debt in any year shall  
4 not be less than the amount payable in any later year unless the  
5 sinking fund method of amortization is authorized by law. Such  
6 sinking fund shall be sufficient to pay the accruing interest on  
7 such debt and annually to reduce the principal by a sum not less  
8 than three per centum of such principal. The money in such  
9 sinking fund shall be invested in the bonds of the United States,  
10 of the state government or of a municipality thereof.  
11 On or before incurring a debt by borrowing money, the munici-  
12 pality shall provide for the collection of an annual tax sufficient  
13 to pay the principal and interest as they fall due.

## Note.

Source: (1) Article IX, section 10:

"Any county, township, school district or other munici-  
pality incurring any indebtedness shall, at or before the

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time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years."

(2) Article XV, section 3:

"Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt."

(3) Part of Article IX, section 8:

"\* \* \* In incurring indebtedness for any purpose, the city of Philadelphia may issue its obligations maturing not later than fifty years from the date thereof, with provision for a sinking fund sufficient to retire said obligations at maturity, the payment to such sinking fund to be in equal or graded annual or other periodical instalments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten, article nine of the constitution of Pennsylvania, until the expiration of said period of one year after the completion of said work." (Amendment of November 5, 1918.)

(4) Part of Article IX, section 15:

"\* \* \* \* Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided" (i. e., water-works, subways, underground railways or street railways or appurtenances thereto) "said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year \* \* \*." (Amendment of November 4, 1913.)

Changes in Substance: (1) The right of the city of Philadelphia, in incurring indebtedness for the construction or improvement of public works of any character from which income is to be derived by the city or for the reclamation of lands to be used in the construction of wharves and docks

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owned or to be owned by the city, and the right of other municipalities, in incurring indebtedness for the construction of water-works, subways, underground railways or street railways or appurtenances thereto, to include the amount of the interest and sinking fund charges accruing or which may accrue throughout the period of construction and until one year after the completion of the work, thus relieving the municipality from the obligation to pay interest and sinking fund charges on the debt out of current revenues until the expiration of one year after the completion of the work, is abolished.

The disastrous effects of the provision of the present constitution is shown by the figures submitted to the Commission by the Department of City Transit in Philadelphia. In 1916, \$4,000,000 bonds were issued to obtain money for the construction of transit facilities. By the end of 1920, twenty per cent. of this amount will have been used to pay the interest and sinking fund charges on account of these bonds. As all work on the sections of the subways for which the money was largely borrowed has been stopped, it will be perceived that a large proportion of the loan will be eventually consumed in the carrying charges. All of which means that the people of Philadelphia, by being permitted to postpone the day when the carrying charges on the transit loans will have to be paid out of taxation, may have doubled the amount which will ultimately have to be met by taxation.

(2) The extension to all municipalities of the right to issue bonds maturing in fifty years irrespective of the purposes for which the bonds are issued.

Under the present constitution, all bonds issued by a municipality must mature within thirty years, except bonds issued by the city of Philadelphia, which must mature not later than fifty years from the date of issue.

The longer term reduces the annual amortization charges. The Commission believe that a municipal bond should not be outstanding longer than the life of the public improvement for the acquisition of which the debt was created. The extension of the term does not violate the principle as the more expensive class of public improvements, as subways, docks and water-works, are constructed to last for a much longer period than fifty years.

(3) The establishment of the serial bond system in lieu of the sinking fund system of amortization, unless the sinking fund system of amortization is authorized by an agency created by law with state-wide jurisdiction. This is in accordance with modern practice.

Changes in Style: The Commission's rules of style have been followed.



## Art. XIII, Secs. 19, 20

## Debts Other Than for Money Borrowed.

- 1 Section 19. A municipality shall not incur a debt otherwise
- 2 than by the borrowing of money unless there has been an appro-
- 3 priation to pay the debt.

## Note.

Source: Article XV, section 2:

"No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government."

Changes in Substance: In the present constitution, Article XV, section 2 apparently enunciates the principle that no agency other than the municipality itself can incur, for the municipality, debt or liability "except in pursuance of a previous appropriation therefor by the municipal government." The Commission, however, believe that the constitution should express a far wider principle; namely, that debt, other than the borrowing of money, cannot be incurred by a municipal government unless an appropriation has been made by such government to pay such debt. The section as proposed expresses this principle.

We have worded this section (Article III, section 20, of the present constitution) so that it is confined to prohibitions on a municipality in respect to the creation of a debt, and section 21 of this article so that it is confined to prohibitions on the state government creating municipal commissions to perform municipal functions.

Changes in Style: The Commission's rules of style have been followed.

## Municipalities Not to Pledge Credit.

- 1 Section 20. A municipality shall not pledge or lend its credit
- 2 to a corporation, association or individual and shall not be a
- 3 stockholder or owner in a corporation or association. Except
- 4 to discharge municipal liabilities, it shall not appropriate money
- 5 to assist a private business enterprise.
- 6 The provisions of this section shall not be construed to apply
- 7 to the lease by a municipality to a corporation of a public service
- 8 facility for a rental dependent on the earnings of the lessee if
- 9 the corporation covenants to operate the facility and an agency
- 10 created by law to regulate public utilities approves the lease.

## Note.

Source: Article IX, section 7:

"The general assembly shall not authorize any county, city, borough, township or incorporated district to become

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a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual."

Changes in Substance: None.

Clarifying Changes: The Commission believe that the intent of the drafters of the section in the present constitution was to prevent a municipality assisting a business enterprise. The methods of assistance were to become a stockholder, and to appropriate money for or lend its credit to the enterprise. In attempting to embody the principle in the section, the section was so worded as to make it impossible for the courts to construe it as meaning what it says. It says: "The general assembly shall not authorize any county, city, borough or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for or to loan its credit to any corporation, association or individual. Interpreted literally, this would prevent, on the one hand, the appropriation of money to a corporation, association, institution or individual in payment of the debts of the municipality; and, on the other, it would prevent all gifts by the municipality to any corporation, association, individual or institution. Thus the payment of money for widows' pensions would be clearly unconstitutional. The courts have attempted to construe the section so as to make it, if possible, workable, with the result that the recorded decisions, while they reflect a certain practical common sense, are difficult to reconcile and there is always the possibility of litigation raised by a taxpayer's bill to restrain an appropriation which while clearly within the language of the prohibition of the section, is probably not within the intent of its drafters. In re-drafting the section, we have attempted to confine the first paragraph to a clear expression of the principle that a municipality should not become a partner in or lend its aid to a business enterprise. No attempt is made to prevent a gift by a municipality provided the gift is not in assistance of a business enterprise.

The second paragraph is inserted to meet the following situation: The people of a city desire a public service facility of a particular character, as, for instance, subways for street railway passenger traffic. From a commercial point of view we will suppose it is not possible to finance the cost of construction because the returns from the operation of the facilities will not yield, above the cost of operation, sufficient return to pay the interest on the cost. The city constructs the facility, not with the intent of operating it, but with the intent of leasing it to an operating company. Under the circumstances supposed, it is not possible for the city to secure an operator who will agree to pay the city at all events the ordinary rate of interest on the cost of the facility. Perhaps the best lease, from the point of view of the city's interest, that can be made under the circumstances is a lease in which the operator is not obligated to pay any rent

## Art. XIII, Secs. 21, 22

unless the rent is earned out of current revenues above operating expenses. Under the wording of the section in the present constitution, a doubt has arisen whether such a lease would not be held to be a loaning of money. A decision to this effect, under an almost similar provision of the Ohio constitution, has been made by the supreme court of that state. (See State, ex rel., Campbell vs. Cincinnati Street Railway Co., 97 Ohio State, 283.)

Under the wording of the second paragraph of the section here proposed, it is clear that such a lease would not violate the provisions of the first paragraph of this section.

Changes in Style: The Commission's rules of style have been followed.

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### Special Commissions Prohibited.

1 Section 21. No law shall delegate to a special commission,  
2 corporation or association power to perform a municipal func-  
3 tion, or to make, supervise or interfere with a municipal im-  
4 provement, or with municipal property or money, whether held  
5 in trust or otherwise.

Note.

Source: Article III, section 20:

"The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever."

Changes in Substance: None.

Changes in Style: The Commission's rules of style have been followed.

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### Assessments of Benefits for Public Improvements.

1 Section 22. Laws may be enacted authorizing assessments  
2 against properties which are specially and particularly benefited  
3 by public improvements made by the state government or by a  
4 municipality, whether or not such properties abut upon such  
5 public improvements.

Note.

Source: This is entirely new matter.

The principle embodied in this section is to assess the direct special monetary increase in values caused by a public improvement upon the properties specially benefited, whether

## Art. XIII, Sec. 22

directly abutting on the improvement or not. The payment of the assessment can be, and we believe generally will be, spread over a period of ten years.

While an important public work causes a general much-diffused increase of values over the whole community, there is always a direct special benefit on the property very directly within the sphere of influence of such a work, and it is only this specially benefited property that may be assessed specially under this section.

The method of paying for improvements through the assessment of benefits upon properties affected, whether or not they touch the improvement, is finding more and more general application throughout the United States. Under the present constitution, as interpreted by the courts, such assessments are limited to abutting properties, an arbitrary rule that accords with neither fact nor justice.

That the opening of streets, the construction of transportation lines, the creation of parks and other large municipal improvements greatly increases the value of property is proven in every case where such improvements have been made, and it is very seldom that the owners of property benefited contribute any substantial aid, financial or otherwise, toward the improvement.

In Philadelphia, the opening of the Boulevard from Broad street through the northeastern part of the city more than doubled the value of property in its vicinity.

Prior to the construction of the Market street subway-elevated line in that city the average annual increase, during several years, in the assessed value of property in West Philadelphia wards was about \$2,300,000, while the average increase in the same area since its construction has been about \$11,500,000, most of which has been in the section served directly by the car lines using the subway. The territory benefited contributed nothing towards the construction of the lines, although it received enormous benefits.

It should be appreciated that failure to assess special benefits, where there are special benefits, cripples the progress of a city and prevents other property owners from getting improvements to which they are equally entitled. A city has only a certain sum to spend on developments; the assessment of benefits will make that sum go much further than it would if there were no such assessment. It is, we believe, no exaggeration to say that without the amendment to the present constitution embodied in the section herein proposed, it will not be possible to make, in the old and more densely populated cities of the state, the public improvements necessary to enable them to become and continue to be attractive places of residence.

The principle embodied in the section applies to improvements made by the money of the taxpayer whether the agent carrying on the improvement is a municipal government or the government of the state. We have, therefore, so worded the section as to apply to the state government. We have,

## Art. XIII, Sec. 23

however, placed the section under this article on Municipalities and not under either Articles III or IV, which deal with the organization and powers of the legislative and the executive branches of the state government, as we believe that this section and the next two sections, 23 and 24, all relating to public improvements, should appear in one place in the constitution. As section 23, for the reasons stated in the note to that section, should appear in this article, and section 24, relating as it does only to municipalities, must appear in this article; we have also placed in this article this section on the assessment of benefits for public improvements.

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## Extent of Land Permitted to be Taken for Public Improvements.

1 Section 23. When the public purpose for which land is taken  
 2 can best be attained by acquiring more land than the state  
 3 government or the municipality proposes to retain, the state  
 4 government or the municipality, subject to regulations prescribed  
 5 by law, may take all the land which in its judgment is needed for  
 6 the attainment of such purpose and may dispose of portions  
 7 thereof, subject to restrictions protective of the public purpose.

## Note.

Source: This is entirely new matter.

The amendment proposed in this section embodies the principle that when the public take land they should be able to take enough land to fully carry out the public purposes intended. As worded, it recognizes the fact that this in many cases necessarily involves taking some land which will not be permanently retained for public use. The reason for and the purpose of the section can be best made clear by the following illustration.

Suppose the public improvement desired by a city is a boulevard which will cut the boundary lines of properties fronting on the older existing streets at all sorts of angles. If the land taken is confined to the lines of the boulevard, it is impossible to carry out fully the object of the improvement, which is to have the boulevard lined by large and well-built public and private properties. Practically, this object can be obtained only by condemning the land on either side of the line of the proposed boulevard to a depth sufficient to afford suitable building lots fronting on the boulevard.

Already the facts here set forth have been recognized in other states. Massachusetts in 1911, Ohio and Wisconsin in 1912 and New York in 1913, have adopted amendments to their constitutions similar to the one embodied in this section.

It will be noted that the section applies to land taken by the state government as well as land taken by a municipality.

## Art. XIII, Secs. 24, 25

It therefore, in strictness, should not be placed in an article the title to which indicates that it is confined to municipalities. We have placed it in this article because there is no other article to which it can be properly assigned. It does not require legislation to make it operative and therefore should not be placed in Article III, and it would not seem advisable to create a separate article on the taking of land.

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### Zoning of Municipalities.

1 Section 24. Municipalities may be authorized by law to pro-  
2 mote the general welfare by regulating the location, size and use  
3 of buildings. For the purpose of such regulations, a municipality  
4 may divide its territory into districts, to each of which special  
5 regulations may be applied.

#### Note.

Source: This is entirely new matter.

We believe that it is generally recognized that a modern city, or a municipality created to govern a country district should have the power to divide its territory into zones for the purpose of making regulations which will enable each zone to be developed along lines suitable to its location, and permit the scientific planning of the development of the entire territory for the best interest of the whole community.

We therefore believe that the general assembly should have the right to grant to any class of municipalities the power to adopt what is popularly known as a zoning system, and have suggested the adoption of the section so as to remove, so far as possible, any constitutional objection that may exist to such legislation.

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### Contracts Between Municipalities.

1 Section 25. A municipality may, as prescribed by law, con-  
2 tract with one or more municipalities for the joint acquisition,  
3 construction, maintenance, supervision or operation of public  
4 property, for the creation of agencies to effect any of such pur-  
5 poses, and for the creation of such agencies as may be mutually  
6 agreed upon for the good government of the municipalities. Such  
7 agencies shall not levy taxes or borrow money. Every such  
8 contract shall name arbitrators.

#### Note.

Source: This is entirely new matter.

There are many improvements, as, for instance, the proper drainage of a large district or its proper water supply, which

## Art. XIII, Secs. 26, 27

are too large to be carried out by one municipality. Such improvements can be carried out in three ways:

- (1) By the action of the state government.
- (2) By the creation of a new class of municipalities for the purpose of carrying on the improvement.
- (3) By the joint action of the municipalities, the territories of which are affected by the improvement.

The amendment embodied in the section here proposed will, if adopted, remove any possible constitutional objection to the third method.

The section will also enable two or more municipalities, when permitted by law, to carry on jointly any municipal activity, as, for instance, police protection.

## Street Passenger Railways in Cities, Boroughs or Townships.

1 Section 26. A street passenger railway shall not be con-  
2 structed in a city, borough or township except with the consent  
3 of the municipality.

4 The provisions of this section shall not be construed to permit  
5 a restriction on the power of the state government to regulate  
6 the operation of such a railway.

## Note.

Source: Article XVII, section 9:

“No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.”

Changes in Substance: None.

Clarifying Changes: The second paragraph of the section makes it certain that the wording of the first paragraph, which is practically identical with Article XVII, section 9, of the present constitution, will never be construed to permit any action on the part of the state government or a municipal government as taking from the state government the right to regulate the operation of such street passenger railways as may be constructed with the consent of the local authorities. We believe that the retention in the state government of the police power of the commonwealth over the operation of all utilities is essential to public welfare.

Changes in Style: The Commission's rules of style have been followed.

## One Place of Paying Taxes in Cities and Boroughs.

1 Section 27. Laws shall be enacted to enable a taxpayer in  
2 each city and borough to pay all municipal taxes at one office.

## Art. XIV, Sec. 1

## Note.

Source: This is entirely new matter.

The adoption of this provision will, we believe, do away with the system of having different offices for the payment of county, school and city or borough taxes. It will enable the residents of each city and borough to pay not merely city or borough taxes at one office, but all taxes—county, school or other taxes—except state taxes, at one office. There may be, after the adoption of the section, more than one office in a city or borough at which taxes are paid, but any one taxpayer will be able to pay all his municipal taxes at one office.

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ARTICLE XIV.

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AMENDMENT AND REVISION.

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Preliminary Note.

Source: Article XVIII of the present constitution.

Title: In the present constitution this article is entitled "Future Amendments." The change in title is made to cover the proposed additional section relating to revision of the constitution by a constitutional convention.

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Amendment of Constitution.

1 Section 1. An amendment to this constitution may be pro-  
 2 posed in the general assembly. If agreed to by a majority of  
 3 the members elected to each house, it shall be entered on the  
 4 journals with the names of the members voting for and of those  
 5 voting against, and the secretary of the commonwealth shall  
 6 cause it to be published once a week for four weeks immediately  
 7 preceding the next general election in at least two newspapers in  
 8 every county in which newspapers shall be published. If it  
 9 shall be likewise agreed to by the next general assembly, the sec-  
 10 retary of the commonwealth shall cause it to be published in the  
 11 manner aforesaid for four weeks immediately preceding the first  
 12 general or municipal election which shall first occur not less than  
 13 three months after such agreement, and it shall be submitted at  
 14 such election to the electors of the commonwealth in such manner  
 15 as the general assembly shall prescribe. If it shall be approved  
 16 by a majority of the electors voting thereon, it shall become a



## Art. XIV, Sec. 1

17 part of the constitution. When two or more amendments are  
18 submitted to the electors at the same time, they shall be voted  
19 upon separately. When any amendment submitted to the elec-  
20 tors shall not be approved by a majority thereof, no amendment  
21 substantially the same shall again be submitted to the electors  
22 within five years.

## Note.

Source: Article XVIII, section 1:

"Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and, if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the secretary of the commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the general assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of the commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the state in such manner and at such time at least three months after being so agreed to by the two houses, as the general assembly shall prescribe; and if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately."

Changes in Substance: (1) The required advertisement, when the amendment has been passed by two successive general assemblies, may precede either a general or a municipal election. Under the present constitution, it must precede a general election. The change is made for the following reasons:

The general assembly meets and municipal elections are held in odd-numbered years. General elections are held in even-numbered years. If any amendment is agreed to by the general assembly in 1921 and is again ratified in 1923, it cannot, under the present constitution be advertised until 1924. The Commission believe that the electors should have an opportunity to pass on the proposed amendment at the first election after its second approval by the general assembly, i. e., the election of 1923.

(2) The amendment must be published by the secretary of the commonwealth for four weeks, instead of thirteen weeks, as provided in the present constitution.

## Art. XIV, Sec. 2

Clarifying Changes: The language of the present constitution as to advertisements is ambiguous. The Commission therefore recommend substituting the words "to be published once a week for four weeks immediately preceding the next regular election." This change is approved by the Secretary of the Commonwealth.

Changes in Style: The Commission's rules of style have been followed.

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Constitutional Conventions.

1 Section 2. The general assembly may recommend to the elec-  
2 tors of the commonwealth to vote for or against a convention  
3 for the framing of a new constitution or of amendments to this  
4 constitution, or of a revision thereof. Such convention shall be  
5 held only with the approval of a majority of the electors voting  
6 on the question. It shall be composed of delegates chosen by the  
7 electors of the commonwealth. The new constitution, the amend-  
8 ments or the revised constitution proposed by the convention  
9 shall become effective only when ratified by a majority of the  
10 electors of the commonwealth voting thereon. The times and  
11 methods of such voting and election and the composition of the  
12 convention shall be determined by the general assembly with the  
13 consent of a majority of the members elected to each house.

## Note.

Source: This is entirely new matter. After very careful consideration of the principles and precedents involved, the Commission have concluded that the method of change, amendment or revision upon recommendation of a constitutional convention should be embodied in the constitution itself.

The proposed section contemplates five steps in such a process:

1. The action of the general assembly directing a vote to be taken as to the desirability of holding a constitutional convention.

2. A vote favorable to the proposition.

(Constitutional conventions have been held in Pennsylvania and elsewhere without the approval of the electors; that is, the electors have simply been permitted by a statute to choose delegates without first having an opportunity to approve or to disapprove of the holding of a constitutional convention. In view, however, of the prevailing modern practice, and of the doubt felt by the Commission as to the validity of a convention held without such approval, the second sentence of the proposed section is recommended.

It will be observed that it would be feasible, under the proposed section, to place before the electors at the same

**Concluding Section.**

election, the question of holding a convention and the choice of delegates.)

3. The election of delegates to the convention.

4. The submission of proposals by the convention to the electors.

5. A vote favorable to the proposals.

The constitutions of Pennsylvania of 1776 and 1790 were promulgated by the constitutional conventions which drafted them. But the universal modern practice is to require the proposals of the convention to be approved by the electors. The Commission therefore recommend that such approval be expressly provided for in the constitution.

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**CONCLUDING SECTION.**

- 1      Wherever a term in the masculine form is used in this constitu-  
2      tion, it refers to men and women alike.

**Note.**

Source: This is entirely new matter. It is necessary because it has been impossible to draft a constitution without using the masculine pronoun. To say "he or she," or "him or her" on every occasion would be awkward in the extreme.



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## EXHIBIT D

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### THE PRESENT CONSTITUTION.

With cross-references to the corresponding provisions of the constitution as proposed.

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## EXHIBIT D

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### THE PRESENT CONSTITUTION.

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With cross-references to the corresponding provisions of the constitution as proposed.

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#### ARTICLE I.

##### DECLARATION OF RIGHTS.

###### Note.

The Commission recommend that the Declaration of Rights be adopted without change. The text will be found in Part II of the Report of the Commission.

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#### ARTICLE II.

##### THE LEGISLATURE.

###### Legislative Power.

Section 1. The legislative power of this commonwealth shall be vested in the general assembly which shall consist of a Senate and a House of Representatives.

Corresponding provisions in—

Art. II, sec. 1, constitution as proposed.

###### Election of Members.—Vacancies.

Section 2. Members of the general assembly shall be chosen at the general election every second year. Their term of service shall begin on the first day of December next after their election. Whenever a vacancy shall occur in either House, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term.

Corresponding provisions in—

Art. II, sec. 6, constitution as proposed.

## Art. II, Secs. 3, 4, 5, 6, 7

**Terms of Members.**

Section 3. Senators shall be elected for the term of four years and representatives for the term of two years.

Part of—

Art. II, sec. 6, constitution as proposed.

**Sessions.—United States Senators.**

Section 4. The general assembly shall meet at twelve o'clock, noon, on the first Tuesday of January every second year, and at other times when convened by the governor, but shall hold no adjourned annual session after the year one thousand eight hundred and seventy-eight. In case of a vacancy in the office of United States senator from this commonwealth, in a recess between sessions, the governor shall convene the two houses, by proclamation on notice not exceeding sixty days to fill the same.

Corresponding provisions in—

Art. II, sec. 9, constitution as proposed.

The provisions in the present constitution following the words "annual session" have been omitted as obsolete.

**Qualification of Members.**

Section 5. Senators shall be at least twenty-five years of age and representatives twenty-one years of age. They shall have been citizens and inhabitants of the state four years, and inhabitants of their respective districts one year next before their election (unless absent on the public business of the United States or of this state), and shall reside in their respective districts during their terms of service.

Corresponding provisions in—

Art. II, sec. 5, constitution as proposed.

**Disqualification to Hold Other Office.**

Section 6. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth, and no member of Congress or other person holding any office (except of attorney-at-law or in the militia) under the United States or this Commonwealth shall be a member of either House during his continuance in office.

Corresponding provisions in—

Art. VII, sec. 2, constitution as proposed.

**Certain Crimes to Disqualify.**

Section 7. No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime shall be eligible to the general assembly, or capable of holding any office of trust or profit in this commonwealth.

Corresponding provisions in—

Art. VII, sec. 3, constitution as proposed.



**Art. II, Secs. 8, 9, 10, 11****Compensation.**

Section 8. The members of the general assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either House shall, during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term.

Corresponding provisions in—

Art. II, sec. 7, constitution as proposed.

**Presiding Officers.—Other Officers.—Election and Qualification of Members.**

Section 9. The Senate shall, at the beginning and close of each regular session and at such other times as may be necessary, elect one of its members president pro tempore, who shall perform the duties of the Lieutenant Governor, in any case of absence or disability of that officer, and whenever the said office of Lieutenant Governor shall be vacant. The House of Representatives shall elect one of its members as speaker. Each House shall choose its other officers, and shall judge of the election and qualifications of its members.

Corresponding provisions in—

Art. II, sec. 12; Art. II, sec. 11, constitution as proposed.

The definition of the duties of the president pro tempore of the senate has been omitted because covered by Article IV, section 14, as proposed.

**Quorum.**

Section 10. A majority of each House shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Corresponding provisions in—

Art. II, sec. 10, constitution as proposed.

**Powers of Each Branch.—Expulsion.**

Section 11. Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause, and shall have all other powers necessary for the legislature of a free state. A member expelled for corruption shall not thereafter be eligible to either House, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

Corresponding provisions in—

Art. II, sec. 11, constitution as proposed.

Art. II, Secs. 12, 13, 14, 15, 16

### Journals.—Yeas and Nays.

Section 12. Each House shall keep a journal of its proceedings and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

Corresponding provisions in—

Art. II, sec. 14, constitution as proposed.

### Sessions Shall be Open.

Section 13. The sessions of each House and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

Corresponding provisions in—

Art. II, sec. 15, constitution as proposed.

### Adjournments.

Section 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Corresponding provisions in—

Art. II, sec. 16, constitution as proposed.

### Privileges of Members.

Section 15. The members of the general assembly shall in all cases, except treason, felony, violation of their oath of office, and breach of surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

Corresponding provisions in—

Art. II, sec. 8, constitution as proposed.

### Senatorial Districts.—Ratio.

Section 16. They shall be divided into fifty senatorial districts of compact and contiguous territory as nearly equal in population as may be, and each district shall be entitled to elect one senator. Each county containing one or more ratios of population shall be entitled to one senator for each ratio, and to an additional senator for a surplus of population exceeding three-fifths of a ratio, but no county shall form a separate district unless it shall contain four-fifths of a ratio, except where the adjoining counties are each entitled to one or more senators when such county may be assigned a senator on less than four-fifths and exceeding one-half of a ratio; and no county shall be divided unless entitled to two or more senators. No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators. No ward, borough or township shall

**Art. II, Secs. 17, 18; Art. III, Sec. 1**

be divided in the formation of a district. The senatorial ratio shall be ascertained by dividing the whole population of the state by the number fifty.

Corresponding provisions in—

Art. II, sec. 3, constitution as proposed.

**Representative Districts.**

Section 17. The members of the House of Representatives shall be apportioned among the several counties, on a ratio obtained by dividing the population of the state as ascertained by the most recent United States census by two hundred. Every county containing less than five ratios shall have one representative for every full ratio, and an additional representative when the surplus exceeds half a ratio; but each county shall have at least one representative. Every county containing five ratios or more shall have one representative for every full ratio. Every city containing a population equal to a ratio shall elect separately its proportion of the representatives allotted to the county in which it is located. Every city entitled to more than four representatives, and every county having over one hundred thousand inhabitants shall be divided into districts of compact and contiguous territory, each district to elect its proportion of representatives according to its population, but no district shall elect more than four representatives.

Corresponding provisions in—

Art. II, sec. 4, constitution as proposed.

**Legislative Apportionment.**

Section 18. The general assembly at its first session after the adoption of this constitution, and immediately after each United States decennial census, shall apportion the state into senatorial and representative districts agreeably to the provisions of the two next preceding sections.

Corresponding provisions in—

Art. II, sec. 2, constitution as proposed.

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**ARTICLE III.****LEGISLATION.****Passage of Bills.—Change of Purpose.**

Section 1. No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.

Corresponding provisions in—

Art. III, sec. 1; Art. III, sec. 5, constitution as proposed.

## Art. III, Secs. 2, 3, 4, 5, 6, 7

## Reference to Committee.—Printing.

Section 2. No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.

Corresponding provisions in—

Art. III, sec. 2, constitution as proposed.

## Subject of Bills.—Title.

Section 3. No bill except general appropriation bills shall be passed containing more than one subject, which shall be clearly expressed in its title.

Corresponding provisions in—

Art. III, secs. 9, 10, constitution as proposed.

## Three Readings.—Amendments.—Final Vote.

Section 4. Every bill shall be read at length on three different days in each House: all amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill, and no bill shall become a law, unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of the members elected to each House be recorded thereon as voting in its favor.

Corresponding provisions in—

Art. III, secs. 5, 7, constitution as proposed.

## Concurring in Amendments.—Conference Committee Reports.

Section 5. No amendment to bills by one House shall be concurred in by the other, except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either House only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.

Corresponding provisions in—

Art. III, sec. 5, constitution as proposed.

## Revival and Amendment of Laws.

Section 6. No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.

Corresponding provisions in—

Art. III, sec. 11, constitution as proposed.

## Special and Local Legislation Limited.

Section 7. The general assembly shall not pass any local or special law:

Authorizing the creation, extension or impairing of liens:

**Art. III, Sec. 7**

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:

Changing the names of persons or places:

Changing the venue in civil or criminal cases:

Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys:

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state:

Vacating roads, town plats, streets or alleys:

Relating to cemeteries, graveyards, or public grounds not of the state:

Authorizing the adoption or legitimation of children:

Locating or changing county seats, erecting new counties or changing county lines:

Incorporating cities, towns or villages, or changing their charters:

For the opening and conducting of elections, or fixing or changing the place of voting:

Granting divorces:

Erecting new townships or boroughs, changing township lines, borough limits or school districts:

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts:

Changing the law of descent or succession:

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:

Regulating the management of public schools, the building or repairing of schoolhouses, and the raising of money for such purposes:

Fixing the rate of interest:

Affecting the estates of minors or persons under disability:

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:

Exempting property from taxation:

Regulating labor, trade, mining or manufacturing:

Creating corporations, or amending, renewing or extending the charters thereof:

Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:

Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed:

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been

## Art. III, Secs. 8, 9, 10

provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

Corresponding provisions in—

Art. III, sec. 20, constitution as proposed.

The final paragraph is omitted. The first part of it, through the words "general law," is covered by clause (o) as proposed. The final clause was probably intended to apply only to special benefits, powers and privileges, such, for instance, as the granting of a divorce. If this is the correct interpretation of the present provision, it is superfluous in view of clause (o) as proposed, which forbids a special law "granting a benefit, privilege or power."

If the language of the present constitution means more than this, the exact meaning is not clear. If it is intended to express the idea that a general law can not grant a benefit, privilege or power which the courts are empowered to grant, it simply repeats the principle expressed in Article V, section 1, that "the judicial power of the commonwealth is vested" in the courts and can not therefore be exercised by the law-making authority. If it is intended to prevent administrative officers from exercising jurisdiction concurrent with the courts, it can apply only to matters relating to "the conduct of elections" (Article V, section 19 as proposed), since all other powers of the courts are necessarily exclusive because either judicial or appointive.

The Commission have therefore omitted a provision of such doubtful and limited operation.

### Notice of Local and Special Bills.

Section 8. No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published, shall be exhibited in the general assembly, before such act shall be passed.

Corresponding provisions in—

Art. III, sec. 6, constitution as proposed.

### Signing of Bills by Presiding Officers.

Section 9. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

Corresponding provisions in—

Art. III, sec. 8, constitution as proposed.

### Officers and Employes.—Payments.

Section 10. The general assembly shall prescribe by law the number, duties and compensation of the officers and employes of each House, and no payment shall be made from the State Treasury, or be in any way authorized, to any person, except to an acting officer or employe elected or appointed in pursuance of law.

Corresponding provisions in—

Art. II, sec. 13, constitution as proposed.

Art. III, Secs. 11, 12, 13, 14, 15

### Extra Compensation Prohibited.—Claims Against the State.

Section 11. No bill shall be passed giving any extra compensation to any public officer, servant, employe agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim against the commonwealth without previous authority of law.

Corresponding provisions in—

Art. III, sec. 16, constitution as proposed.

### Public Printing and Supplies.

Section 12. All stationery, printing, paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract to be given to the lowest responsible bidder below such maximum price, and under such regulation, as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

Corresponding provisions in—

Art. IV, secs. 20, 21, constitution as proposed.

### Extension of Terms.

Section 13. No law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment.

Corresponding provisions in—

Art. VII, sec. 5, constitution as proposed.

### Revenue Bills.

Section 14. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

Corresponding provisions in—

Art. III, sec. 2, constitution as proposed.

### Appropriation Bills.

Section 15. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the commonwealth, interest on the public debt and for public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

Corresponding provisions in—

Art. III, sec. 12, constitution as proposed.

Art. III, Secs. 16, 17, 18, 19, 20

### **Paying Out Public Moneys.**

Section 16. No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant by the proper officer in pursuance thereof.

Corresponding provisions in—

Art. VIII, sec. 10, constitution as proposed.

### **Appropriations to Charitable and Educational Institutions.**

Section 17. No appropriation shall be made to any charitable or educational institution not under the absolute control of the commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the state, except by a vote of two-thirds of all the members elected to each house.

Corresponding provisions in—

Art. III, sec. 13, constitution as proposed.

The special reference to normal schools has been omitted because all normal schools are now under the absolute control of the commonwealth.

### **Certain Appropriations Forbidden.**

Section 18. No appropriations, except for pensions or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation or association.

Corresponding provisions in—

Art. III, secs. 14, 15, 16, constitution as proposed.

### **Appropriations for the Support of Widows and Orphans of Soldiers.**

Section 19. The general assembly may make appropriations of money to institutions wherein the widows of soldiers are supported or assisted, or the orphans of soldiers are maintained and educated; but such appropriation shall be applied exclusively to the support of such widows and orphans.

Omitted because this class of institutions is covered by Article III section 15, as proposed.

### **Special Commissions Prohibited.**

Section 20. The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

Corresponding provisions in—

Art. XIII, sec. 21, constitution as proposed.



Art. III, Secs. 21, 22, 23, 24

**Employers' Liability.—Workmen's Compensation.—Damages for Injuries to Persons or Property.**

Section 21. The general assembly may enact laws requiring the payment by employers, or employers and employes jointly, of reasonable compensation for injuries to employes arising in the course of their employment, and for occupational diseases of employes, whether or not such injuries or diseases result in death, and regardless of fault of employer or employe, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in not other cases shall the general assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property or for other causes, different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided. (Amendment of Nov. 2, 1915.)

Corresponding provisions in—

Art. III, sec. 21; Art. IX, sec. 9, constitution as proposed.

**Investment of Trust Funds.**

Section 22. No act of the general assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and such acts now existing are avoided saving investments heretofore made.

Corresponding provisions in—

Art. IX, sec. 3, constitution as proposed.

**Change of Venue.**

Section 23. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law.

Corresponding provisions in—

Art. V, sec. 20, constitution as proposed.

**Corporate Obligations Owned by State.**

Section 24. No obligation or liability of any railroad or other corporation, held or owned by the commonwealth, shall ever be exchanged, transferred, remitted, postponed or in any way diminished by the general assembly, nor shall such liability or obligation be released, except by payment thereof into the State Treasury.

Corresponding provisions in—

Art. IX, sec. 8, constitution as proposed.

Art. III, Secs. 25, 26, 27, 28, 29

### Legislation During Special Session.

Section 25. When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session.

Corresponding provisions in—

Art. III, sec. 25, constitution as proposed.

### Concurrent Resolutions, &c., to be Presented to Executive.

Section 26. Every order, resolution or vote, to which the concurrence of both Houses may be necessary, except on the question of adjournment, shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved, shall be re-passed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

Corresponding provisions in—

Art. III, sec. 17, constitution as proposed.

### State Inspection of Merchandise Prohibited.

Section 27. No state office shall be continued or created for the inspection or measuring of any merchandise, manufacture or commodity, but any county or municipality may appoint such officers when authorized by law.

Omitted because obsolete.

### Change of Location of State Capital.

Section 28. No law changing the location of the capital of the state shall be valid until the same shall have been submitted to the qualified electors of the commonwealth at a general election and ratified and approved by them.

Corresponding provisions in—

Art. III, sec. 26, constitution as proposed.

### Bribery of Members of Legislature.

Section 29. A member of the general assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing, to another, shall

**Art. III, Secs. 30, 31, 32, 33**

be held guilty of bribery within the meaning of this Constitution, and shall incur the disabilities provided thereby for said offense, and such additional punishment as is or shall be provided by law.

Corresponding provisions in—

Art. VII, sec. 9, constitution as proposed.

**Giving of Bribes.**

Section 30. Any person who shall, directly or indirectly, offer, give or promise, any money, or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer, or member of the general assembly, to influence him in the performance of any of his public or official duties; shall be guilty of bribery and be punished in such manner as shall be provided by law.

Corresponding provisions in—

Art. VII, sec. 9, constitution as proposed.

**Corrupt Solicitation.**

Section 31. The offense of corrupt solicitation of members of the general assembly or of public officers of the state or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law and shall be punished by fine and imprisonment.

Omitted because "corrupt solicitation" is another name for attempted bribery.

"Any occupation or practice of solicitation" is a repetition of the same idea. The offense of attempting to bribe a public servant (taken from Article III, sections 29 and 30 of the present constitution) is defined in Article VII, section 9 as proposed and is there designated as "bribery." It is unnecessary to require the enactment of a law to define what the constitution itself defines.

**Investigation of Bribery or Corrupt Solicitation.—Compulsory Testimony.—Disqualification as Punishment.**

Section 32. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or practices of solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony, and any person convicted of either of the offenses aforesaid shall, as part of the punishment therefor, be disqualified from holding any office or position of honor, trust or profit in this commonwealth.

Corresponding provisions in—

Art. VII, secs. 3, 9, constitution as proposed.

**Member Interested in Bill not to Vote.**

Section 33. A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly

**Art. IV, Secs. 1, 2, 3**

shall disclose the fact to the House of which he is a member, and shall not vote thereon.

Corresponding provisions in—

Art. III, sec. 4, constitution as proposed.

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**ARTICLE IV.****THE EXECUTIVE.****Executive Department.**

Section 1. The executive department of this commonwealth shall consist of a Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, Secretary of Internal Affairs, and a Superintendent of Public Instruction.

Corresponding provisions in—

Art. IV, sec. 1, constitution as proposed.

**Governor.—Election.—Returns.—Contested Election.**

Section 2. The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed; he shall be chosen on the day of the general election, by the qualified electors of the commonwealth, at the places where they shall vote for representatives. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the president of the Senate, who shall open and publish them in the presence of the members of both Houses of the general assembly. The person having the highest number of votes shall be Governor, but if two or more be equal and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both Houses. Contested elections shall be determined by a committee, to be selected from both Houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

Corresponding provisions in—

Art. IV, secs. 3, 4, 6, constitution as proposed.

**Governor's Term.**

Section 3. The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be eligible to the office for the next succeeding term.

Corresponding provisions in—

Art. IV, sec. 5, constitution as proposed.

Art. IV, Secs. 4, 5, 6, 7, 8

### Lieutenant Governor.

Section 4. A Lieutenant Governor shall be chosen at the same time, in the same manner, for the same term, and subject to the same provisions as the Governor; he shall be president of the Senate, but shall have no vote unless they be equally divided.

Corresponding provisions in—

Art. IV, sec. 13, constitution as proposed.

### Qualifications of Governor and Lieutenant Governor.

Section 5. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the state, unless he shall have been absent on the public business of the United States or of this State.

Corresponding provisions in—

Art. IV, secs. 2, 13, constitution as proposed.

### Disqualifications.

Section 6. No member of Congress or person holding any office under the United States or this state shall exercise the office of Governor or Lieutenant Governor.

Corresponding provisions in—

Art. VII, sec. 2, constitution as proposed.

### Military Commander.

Section 7. The Governor shall be commander-in-chief of the army and navy of the commonwealth, and of the militia, except when they shall be called into the actual service of the United States.

Corresponding provisions in—

Art. IV, sec. 7, constitution as proposed.

### Appointing Power of Governor.—Vacancies.—Confirmation by Senate.

Section 8. He shall nominate and, by and with the advice and consent of two-thirds of all the members of the senate, appoint a secretary of the commonwealth and an attorney general during pleasure, a superintendent of public instruction for four years, and such other officers of the commonwealth as he is or may be authorized by the constitution or by law to appoint; he shall have power to fill all vacancies that may happen, in offices to which he may appoint, during the recess of the senate, by granting commissions which shall expire at the end of their next session; he shall have power to fill any vacancy that may happen, during the recess of the senate, in the office of auditor general, state treasurer, secretary of internal affairs or superintendent of public instruction, in a judicial office, or in any other elective office which he is or may be authorized to fill; if the

## Art. IV, Secs. 9, 10, 11, 12

vacancy shall happen during the session of the senate, the governor shall nominate to the senate, before their final adjournment, a proper person to fill said vacancy; but in any such case of vacancy, in an elective office, a person shall be chosen to said office on the next election day appropriate to such office according to the provisions of this constitution, unless the vacancy shall happen within two calendar months immediately preceding such election day, in which case the election for said office shall be held on the second succeeding election day appropriate to such office. In acting on executive nominations the senate shall sit with open doors, and in confirming or rejecting the nominations of the governor, the vote shall be taken by yeas and nays and shall be entered on the journal. (Amendment of November 2, 1909.)

Corresponding provisions in—

Art. IV, sec. 8, constitution as proposed.

### Pardoning Power.

Section 9. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment; but no pardon shall be granted, nor sentence commuted, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General and Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth.

Corresponding provisions in—

Art. IV, sec. 9, constitution as proposed.

### Information from Department Officials.

Section 10. He may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.

Corresponding provisions in—

Art. IV, sec. 10, constitution as proposed.

### Messages to Legislature.

Section 11. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he may judge expedient.

Corresponding provisions in—

Art. IV, sec. 11, constitution as proposed.

### Special Sessions of Legislature.—Adjournments.—Special Sessions of Senate.

Section 12. He may, on extraordinary occasions, convene the general assembly, and in case of disagreement between the two Houses with respect to the time of adjournment, adjourn them to such time

## Art. IV, Secs. 13, 14, 15

as he shall think proper, not exceeding four months. He shall have power to convene the Senate in extraordinary session by proclamation for the transaction of executive business.

Corresponding provisions in—

Art. IV, sec. 12, constitution as proposed.

## When Lieutenant Governor Shall Act.

Section 13. In case of the death, conviction or impeachment, failure to qualify, resignation, or other disability of the Governor, the powers, duties and emoluments of the office, for the remainder of the term, or until the disability be removed, shall devolve upon the Lieutenant Governor.

Corresponding provisions in—

Art. IV, sec. 14, constitution as proposed.

## Vacancy in Office of Lieutenant Governor.

Section 14. In case of a vacancy in the office of Lieutenant Governor, or when the Lieutenant Governor shall be impeached by the House of Representatives, or shall be unable to exercise the duties of his office, the powers, duties and emoluments thereof for the remainder of the term, or until the disability be removed, shall devolve upon the president pro tempore of the Senate; and the president pro tempore of the Senate shall in like manner become Governor if a vacancy or disability shall occur in the office of Governor; his seat as senator shall become vacant whenever he shall become Governor, and shall be filled by election as any other vacancy in the Senate.

Corresponding provisions in—

Art. IV, sec. 15, constitution as proposed.

## Approval of Bills.—Veto.

Section 15. Every bill which shall have passed both Houses shall be presented to the Governor; if he approve he shall sign it, but if he shall not approve he shall return it with his objections to the House in which it shall have originated, which House shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members elected to that House shall agree to pass the bill, it shall be sent with the objections to the other House by which likewise it shall be reconsidered, and if approved by two-thirds of all the members elected to that House it shall be a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each House, respectively. If any bill shall not be returned by the Governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall be a law, unless he shall

**Art. IV, Secs. 16, 17, 18, 19**

file the same with his objections, in the office of the Secretary of the Commonwealth, and give notice thereof by public proclamation within thirty days after such adjournment.

Corresponding provisions in—

Art. III, sec. 17, constitution as proposed.

**Partial Disapproval of Appropriation Bills.**

Section 16. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

Corresponding provisions in—

Art. III, sec. 18, constitution as proposed.

**Contested Election of Governor or Lieutenant Governor.  
Holding Over.**

Section 17. The chief justice of the supreme court shall preside upon the trial of any contested election of Governor or Lieutenant Governor and shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial. The Governor and Lieutenant Governor shall exercise the duties of their respective offices until their successors shall be duly qualified.

Corresponding provisions in—

Art. IV, secs. 4, 5, 13, constitution as proposed.

**Secretary of the Commonwealth.**

Section 18. The Secretary of the Commonwealth shall keep a record of all official acts and proceedings of the Governor, and when required lay the same, with all papers, minutes and vouchers relating thereto, before either branch of the general assembly, and perform such other duties as may be enjoined upon him by law.

Corresponding provisions in—

Art. IV, sec. 17, constitution as proposed.

**Secretary of Internal Affairs.**

Section 19. The Secretary of Internal Affairs shall exercise all the powers and perform all the duties of the Surveyor General, subject to such changes as shall be made by law. His department shall embrace a bureau of industrial statistics, and he shall discharge such duties relating to corporations, to the charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material or business interests of the state as may be prescribed by law. He shall annually, and at such other times as may be required by law, make report to the general assembly.

Corresponding provisions in—

Art. IV, sec. 18, constitution as proposed.



Art. IV, Secs. 20, 21, 22; Art. V, Sec. 1

### Superintendent of Public Instruction.

Section 20. The Superintendent of Public Instruction shall exercise all the powers and perform all the duties of the superintendent of common schools, subject to such changes as shall be made by law.

Omitted. The constitution as proposed provides for a commissioner of education instead of a superintendent of public instruction. The office of superintendent of common schools has not existed since 1874.

### Terms of Executive Department Officers.—Ineligibility to Re-election.

Section 21. The terms of the secretary of internal affairs, the auditor general, and the state treasurer shall each be four years; and they shall be chosen by the qualified electors of the state at general elections, but a state treasurer, elected in the year one thousand nine hundred and nine, shall serve for three years, and his successors shall be elected at the general election in the year one thousand nine hundred and twelve and in every fourth year thereafter. No person elected to the office of auditor general or state treasurer shall be capable of holding the same office for two consecutive terms. (Amendment of November 2 1909.)

Corresponding provisions in—

Art. IV, sec. 19, constitution as proposed.

### Seal.—Commissions.

Section 22. The present great seal of Pennsylvania shall be the seal of the state. All commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania, and be sealed with the state seal and signed by the Governor.

Corresponding provisions in—

Art. IV, sec. 22, constitution as proposed.

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## ARTICLE V. THE JUDICIARY.

### Judicial Power.

Section 1. The judicial power of this commonwealth shall be vested in a supreme court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter session of the peace, orphans court, magistrates courts and in such other courts as the general assembly may from time to time establish.

Corresponding provisions in—

Art. V, sec. 1, constitution as proposed.

Art. V, Secs. 2, 3, 4, 5

### Supreme Court.

Section 2. The supreme court shall consist of seven judges, who shall be elected by the qualified electors of the state at large. They shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be again eligible. The judge whose commission shall first expire shall be chief justice, and thereafter each judge whose commission shall first expire shall in turn be chief justice.

Corresponding provisions in—

Art. V, sec. 2, constitution as proposed.

### Jurisdiction of Supreme Court.

Section 3. The jurisdiction of the supreme court shall extend over the state, and the judges thereof shall, by virtue of their offices, be justices of oyer and terminer and general jail delivery in the several counties; they shall have original jurisdiction in cases of injunction where a corporation is a party defendant, of habeas corpus, of mandamus to courts of inferior jurisdiction, and of quo warranto as to all officers of the commonwealth whose jurisdiction extends over the state, but shall not exercise any other original jurisdiction; they shall have appellate jurisdiction by appeal, certiorari or writ of error in all cases, as is now or may hereafter be provided by law.

Corresponding provisions in—

Art. V, sec. 3, constitution as proposed.

### Common Pleas Courts.

Section 4. Until otherwise directed by law, the courts of common pleas shall continue as at present established, except as herein changed; not more than four counties shall, at any time, be included in one judicial district organized for said courts.

Corresponding provisions in—

Art. V, secs. 7, 8, constitution as proposed.

### Judicial District.—Associate Judges.

Section 5. Whenever a county shall contain forty thousand inhabitants it shall constitute a separate judicial district, and shall elect one judge learned in the law; and the general assembly shall provide for additional judges, as the business of the said districts may require. Counties containing a population less than is sufficient to constitute separate districts shall be formed into convenient single districts, or, if necessary, may be attached to contiguous districts as the general assembly may provide. The office of associate judge, not learned in the law, is abolished in counties forming separate districts; but the several associate judges in office when this constitution shall be adopted shall serve for their unexpired terms.

Corresponding provisions in—

Art. V, secs. 7, 8, constitution as proposed.

## Art. V, Secs. 6, 7

**Courts of Common Pleas of Philadelphia and Allegheny Counties.**

Section 6. In the county of Philadelphia all the jurisdiction and powers now vested in the district courts and courts of common pleas, subject to such changes as may be made by this constitution or by law, shall be in Philadelphia vested in five distinct and separate courts of equal and co-ordinate jurisdiction, composed of three judges each. The said courts in Philadelphia shall be designated respectively as the court of common pleas number one, number two, number three, number four, and number five, but the number of said courts may be by law increased from time to time, and shall be in like manner designated by successive numbers. The number of judges in any of said courts, or in any county where the establishment of an additional court may be authorized by law, may be increased, from time to time, and whenever such increase shall amount in the whole to three, such three judges shall compose a distinct and separate court as aforesaid, which shall be numbered as aforesaid. In Philadelphia all suits shall be instituted in the said courts of common pleas without designating the number of the said court, and the several courts shall distribute and apportion the business among them in such manner as shall be provided by the rules of court, and each court, to which any suit shall be thus assigned, shall have exclusive jurisdiction thereof, subject to change of venue, as shall be provided by law.

In the county of Allegheny all the jurisdiction and powers now vested in the several numbered courts of common pleas shall be vested in one court of common pleas composed of all the judges in commission in said courts. Such jurisdiction and powers shall extend to all proceedings at law and in equity which shall have been instituted in the several numbered courts, and shall be subject to such changes as may be made, by law, and subject to change of venue as provided by law.

The president judge of said court shall be selected as provided by law. The number of judges in said court may be by law increased from time to time. This amendment shall take effect on the first day of January succeeding its adoption. (Amendment of November 7, 1911.)

Omitted. Article V, section 10 of the constitution as proposed recommends the consolidation of the courts of common pleas in Philadelphia.

**Prothonotary of Philadelphia County.—Salaries.—Fees.—Dockets.**

Section 7. For Philadelphia there shall be one prothonotary's office, and one prothonotary for all said courts, to be appointed by the judges of said courts, and to hold office for three years, subject to removal by a majority of the said judges; the said prothonotary shall appoint such assistants as may be necessary and authorized by said courts; and he and his assistants shall receive fixed salaries, to be determined by law and paid by said county; all fees collected in said office, except such as may be by law due to the commonwealth, shall be paid by the prothonotary into the county treasury. Each court shall have its separate dockets, except the judgment docket, which shall contain the judgments and liens of all the said courts, as is or may be directed by law.

Corresponding provisions in—

Art. XIII, sec. 12, constitution as proposed.

Art. V, Secs. 8, 9, 10, 11

### Criminal Courts in Philadelphia and Allegheny Counties.

Section 8. The said courts in the counties of Philadelphia and Allegheny, respectively, shall, from time to time, in turn detail one or more of their judges to hold the courts of oyer and terminer and the courts of quarter sessions of the peace of said counties, in such manner as may be directed by law.

Omitted. This section was inserted in the constitution of 1874 because of the several numbered courts of common pleas in the counties of Philadelphia and of Allegheny. These numbered courts have been abolished in Allegheny and are now recommended to be abolished in Philadelphia; hence the section is no longer needed.

### Powers of Judges of Common Pleas Courts.

Section 9. Judges of the courts of common pleas learned in the law shall be judges of the courts of oyer and terminer, quarter sessions of the peace and general jail delivery, and of the orphans' court, and within their respective districts shall be justices of the peace as to criminal matters.

Corresponding provisions in—

Art. V, secs. 9, 11, 12, constitution as proposed.

### Certiorari to Courts Not of Record.

Section 10. The judges of the courts of common pleas, within their respective counties, shall have power to issue writs of certiorari to justices of the peace and other inferior courts not of record, and to cause their proceedings to be brought before them, and right and justice to be done.

Corresponding provisions in—

Art. V, sec. 9, constitution as proposed.

### Justices of the Peace.—Aldermen.—Term.—Residence.—Number.

Section 11. Except as otherwise provided in this constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs and townships, by the qualified electors thereof, at the municipal election, in such manner as shall be directed by law, and shall be commissioned by the governor for a term of six years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen without the consent of a majority of the qualified electors within such township, ward or borough; no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district. (Amendment of November 2, 1909.)

Corresponding provisions in—

Art. V, sec. 13; Art. VII, sec. 1, constitution as proposed.

Art. V, Secs. 12, 13, 14, 15

### Magistrates' Courts in Philadelphia.—Election.—Term.—Salaries.—Jurisdiction.

Section 12. In Philadelphia there shall be established, for each thirty thousand inhabitants, one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars; such courts shall be held by magistrates whose term of office shall be six years and they shall be elected on general ticket at the municipal election, by the qualified voters at large; and in the election of the said magistrates no voter shall vote for more than two-thirds of the number of persons to be elected when more than one are to be chosen; they shall be compensated only by fixed salaries to be paid by said county; and shall exercise such jurisdiction, civil and criminal, except as herein provided, as is now exercised by aldermen, subject to such changes, not involving an increase of civil jurisdiction or conferring political duties, as may be made by law. In Philadelphia the office of aldermen is abolished. (Amendment of November 2, 1909.)

Corresponding provisions in—

Art. V, sec. 14, constitution as proposed.

### Disposition of Fines, Fees, Etc.

Section 13. All fees, fines and penalties in said courts shall be paid into the county treasury.

Corresponding provisions in—

Art. V, secs. 11, 12, constitution as proposed.

### Appeal from Summary Conviction.

Section 14. In all cases of summary conviction in this commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, either party may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown.

Corresponding provisions in—

Art. V, sec. 22, constitution as proposed.

### Election of Judges.—Term.—Removal.

Section 15. All judges required to be learned in the law, except the judges of the supreme court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves well; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor may remove any of them on the address of two-thirds of each house of the general assembly.

Corresponding provisions in—

Art. V, secs. 5, 8, 12, 14; Art. VII, sec. 7, constitution as proposed.

Art. V, Secs. 16, 17, 18, 19, 20

### Voting for Supreme Court Judges.

Section 16. Whenever two judges of the supreme court are to be chosen for the same term of service each voter shall vote for one only, and when three are to be chosen he shall vote for no more than two; candidates highest in vote shall be declared elected.

Omitted, because the Commission believe that this haphazard way of securing minority representation is not desirable.

### Priority of Commission.

Section 17. Should any two or more judges of the supreme court, or any two or more judges of the court of common pleas for the same district be elected at the time, they shall, as soon after the election as convenient, cast lots for priority of commission, and certify the result to the Governor, who shall issue their commissions in accordance therewith.

Corresponding provisions in—

Art. V, sec. 16, constitution as proposed.

### Compensation of Judges.

Section 18. The judges of the supreme court and the judges of the several courts of common pleas, and all other judges required to be learned in the law, shall at stated times receive for their services an adequate compensation, which shall be fixed by law, and paid by the state. They shall receive no other compensation, fees, or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this state or any other state.

Corresponding provisions in—

Art. V, sec. 18; Art. VII, sec. 2, constitution as proposed.

### Residence of Judges.

Section 19. The judges of the supreme court during their continuance in office shall reside within this commonwealth; and the other judges during their continuance in office shall reside within the districts for which they shall be respectively elected.

Corresponding provisions in—

Art. V, sec. 17, constitution as proposed.

### Chancery Powers.

Section 20. The several courts of common pleas, besides the powers herein conferred, shall have and exercise within their respective districts, subject to such changes as may be made by law, such chancery powers as are now vested by law in the several courts of common pleas of this commonwealth, or as may hereafter be conferred upon them by law.

Corresponding provisions in—

Art. V, sec. 9, constitution as proposed.

Art. V, Secs. 21, 22, 23, 24

### Duties of Judges.—Nisi Prius Courts.—Supreme Court Judges.

Section 21. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided. The court of nisi prius is hereby abolished, and no court of original jurisdiction to be presided over by any one or more of the judges of the supreme court shall be established.

Corresponding provisions in—

Art. V, sec. 19, constitution as proposed.

### Orphan's Court.

Section 22. In every county wherein the population shall exceed one hundred and fifty thousand the general assembly shall, and in any other county may, establish a separate orphans' court to consist of one or more judges who shall be learned in the law, which court shall exercise all the jurisdiction and powers now vested in or which may hereafter be conferred upon the orphans' court, and thereupon the jurisdiction of the judges of the court of common pleas within such county in orphans' court proceedings shall cease and determine. In any county in which a separate orphans' court shall be established the register of wills shall be clerk of such court and subject to its directions in all matters pertaining to his office; he may appoint assistant clerks, but only with the consent and approval of said court. All accounts filed with him as register or as clerk of the said separate orphans' court shall be audited by the court without expense to parties, except where all parties in interest in a pending proceeding shall nominate an auditor whom the court may, in its discretion, appoint. In every county orphans' courts shall possess all the powers and jurisdiction of a register's court, and separate registers' courts are hereby abolished.

Corresponding provisions in—

Art. V, sec. 12, constitution as proposed.

### Style of Process.—Indictments.

Section 23. The style of all process shall be "The Commonwealth of Pennsylvania." All prosecutions shall be carried on in the name and by the authority of the Commonwealth of Pennsylvania, and conclude "against the peace and dignity of the same."

Corresponding provisions in—

Art. V, sec. 23, constitution as proposed.

### Appeals to Supreme Court in Criminal Cases.

Section 24. In all cases of felonious homicide, and in such other criminal cases as may be provided for by law, the accused, after conviction and sentence, may remove the indictment, record and all proceedings, to the supreme court for review.

Corresponding provisions in—

Art. V, sec. 21, constitution as proposed.

Art. V, Secs. 25, 26, 27; Art. VI, Secs. 1, 2

### Vacancies and Courts of Record.

Section 25. Any vacancy happening by death, resignation or otherwise, in any court of record, shall be filled by appointment by the Governor, to continue till the first Monday of January next succeeding the first general election, which shall occur three or more months after the happening of such vacancy.

Corresponding provisions in—

Art. IV, sec. 8, constitution as proposed.

### Uniform Laws for Courts.—Certain Courts Prohibited.

Section 26. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction and powers of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process and judgments of such courts, shall be uniform; and the general assembly is hereby prohibited from creating other courts to exercise the powers vested by this Constitution in the judges of the courts of common pleas and orphans' courts.

Corresponding provisions in—

Art. III, sec. 20, clause (g), constitution as proposed.

### Litigants May Dispense With Jury Trial.

Section 27. The parties by agreement filed, may in any civil case dispense with trial by jury, and submit the decision of such case to the court having jurisdiction thereof, and such court shall hear and determine the same; and the judgment thereon shall be subject to writ of error as in other cases.

Corresponding provisions in—

Art. V, sec. 24, constitution as proposed.

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## ARTICLE VI.

### IMPEACHMENT AND REMOVAL FROM OFFICE.

#### Power of Impeachment.

Section 1. The House of Representatives shall have the sole power of impeachment.

Corresponding provisions in—

Art. VII, sec. 6, constitution as proposed.

#### Trials of Impeachment.

Section 2. All impeachments shall be tried by the Senate; when sitting for that purpose the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

Corresponding provisions in—

Art. VII, sec. 6, constitution as proposed.



Art. VI, Secs. 3, 4; Art. VII, Sec. 1

### Officers Liable to Impeachment.—Judgment.

Section 3. The Governor and all other civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this commonwealth; the person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Corresponding provisions in—

Art. VII, secs. 3, 6, constitution as proposed.

### Tenure of Office.—Removals from Office.

Section 4. All officers shall hold their offices on the condition that they behave themselves well while in office and shall be removed on conviction of misbehavior in office, or of any infamous crime. Appointed officers, other than judges of the courts of record and the superintendent of public instruction, may be removed at the pleasure of the power by which they shall have been appointed. All officers elected by the people, except governor, lieutenant-governor, members of the general assembly and judges of the courts of record learned in the law, shall be removed by the governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the senate.

Corresponding provisions in—

Art. VII, sec. 7, constitution as proposed.

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## ARTICLE VII.

### OATH OF OFFICE.

#### Official Oath.—How Administered.

Section 1. Senators and representatives and all judicial, state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth; and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

## Art. VIII, Secs. 1, 2

The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of state officers and judges of the supreme court, shall be filed in the office of the Secretary of the Commonwealth, and in the case of other judicial and county officers, in the office of the prothonotary of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this commonwealth. The oath to the members of the Senate and House of Representatives shall be administered by one of the judges of the supreme court or of a court of common pleas, learned in the law, in the hall of the House to which the members shall be elected.

Corresponding provisions in—

Art. VII, secs. 3, 4, constitution as proposed.

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## ARTICLE VIII.

### SUFFRAGE AND ELECTIONS.

#### Qualification of Electors.

Section 1. Every male citizen of twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject however to such laws requiring and regulating the registration of electors as the general assembly may enact:

1. He shall have been a citizen of the United States at least one month.

2. He shall have resided in the state one year (or, having previously been a qualified elector or native born citizen of the state, he shall have removed therefrom and returned, then six months), immediately preceding the election.

3. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

4. If twenty-two years of age and upwards, he shall have paid within two years a state or county tax, which shall have been assessed at least two months and paid at least one month before the election. (Amendment of November 5, 1901.)

Corresponding provisions in—

Art. VI, sec. 1, constitution as proposed.

#### General Elections.

Section 2. The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year, but the general assembly may by law fix a different

## Art. VIII, Secs. 3, 4, 5, 6

day, two-thirds of all the members of each House consenting thereto; provided, that such election shall always be held in an even-numbered year.

Corresponding provisions in—

Art. VI, sec. 9, constitution as proposed.

### Municipal Elections.—Election of Judges and County Officers.

Section 3. All judges elected by the electors of the state at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward, borough and township officers, for regular terms of service, shall be held on the municipal election day; namely the Tuesday next following the first Monday of November in each odd-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto; provided, that such election shall be held in an odd-numbered year; provided further, that all judges for the courts of the several judicial districts holding office at the present time, whose terms of office may end in an odd-numbered year, shall continue to hold their offices until the first Monday of January in the next succeeding even-numbered year.

Corresponding provisions in—

Art. VI, sec. 9; Art. VII, sec. 1, constitution as proposed.

The final clause, beginning with the words "provided further" are omitted. Since a new constitution can not go into effect before January 1, 1923, and since the terms of all judges of any judicial district in office November 2, 1913, will have expired before that time, this part of the section would be obsolete.

### Method of Conducting Elections.—Secrecy.

Section 4. All elections by the citizens shall be by ballot or by such other method as may be prescribed by law; provided, that secrecy in voting be preserved.

Corresponding provisions in—

Art. VI, sec. 10, constitution as proposed.

### Privileges of Electors.

Section 5. Electors shall in all cases except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

Corresponding provisions in—

Art. VI, sec. 4, constitution as proposed.

### Voting When Engaged in Military Service.

Section 6. Whenever any of the qualified electors of this commonwealth shall be in actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all

## Art. VIII, Secs. 7, 8, 9, 10

elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

Corresponding provisions in—

Art. VI, sec. 3, constitution as proposed.

**Registration of Electors.—Uniformity of Election Laws.**

Section 7. All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the state, but laws regulating and requiring the registration of electors may be enacted to apply to cities only; provided, that such laws be uniform for cities of the same class.

Corresponding provisions in—

Art. III, sec. 20, clause (f), constitution as proposed.

**Bribery at Elections.—Challenging of Electors.**

Section 8. Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such electors' vote or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

Corresponding provisions in—

Art. VI, sec. 5, constitution as proposed.

**Violation of Election Laws.**

Section 9. Any person who shall, while a candidate for office, be guilty of bribery, fraud or willful violation of any election law shall be forever disqualified from holding an office of trust or profit in this commonwealth; and any person convicted of willful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.

Corresponding provisions in—

Art. VI, sec. 5; Art. VII, sec. 3, constitution as proposed.

**Witnesses in Contested Elections and Election Investigations.**

Section 10. In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or

**Art. VIII, Secs. 11, 12, 13, 14**

subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony.

Corresponding provisions in—

Art. VI, sec. 5, constitution as proposed.

**Election Districts.**

Section 11. Townships, and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct; but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions, having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.

Corresponding provisions in—

Art. VI, sec. 6, constitution as proposed.

**Elections by Persons in Representative Capacity.**

Section 12. All elections by persons in a representative capacity shall be *viva voce*.

Corresponding provisions in—

Art. VI, sec. 12 constitution as proposed.

**Residence of Electors.**

Section 13. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this state or of the United States, nor while engaged in the navigation of the waters of the state or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison.

Corresponding provisions in—

Art. VI, sec. 2, constitution as proposed.

**Election Officers.**

Section 14. District election boards shall consist of a judge and two inspectors, who shall be chosen annually by the citizens. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up

## Art. VIII, Secs. 15, 16, 17

and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of the peace. In cities they may claim exemption from jury duty during their terms of service.

Corresponding provisions in—

Art. VI, sec. 7, constitution as proposed.

**Disqualification for Election Officers.**

Section 15. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the government of the United States or of this state, or of any city, or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the state; nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law.

Corresponding provisions in—

Art. VII, secs. 2, 3, constitution as proposed.

**Overseers of Elections.**

Section 16. The courts of common pleas of the several counties of the commonwealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers and to make report to the court as may be required; such appointments to be made for any district in a city or county upon petition of five citizens, lawful voters of such election district, setting forth that such appointment is a reasonable precaution to secure the purity and fairness of elections; overseers shall be two in number for an election district, shall be residents therein, and shall be persons qualified to serve upon election boards, and in each case members of different political parties; whenever the members of an election board shall differ in opinion the overseers, if they shall be agreed thereon, shall decide the question of difference; in appointing overseers of election all the law judges of the proper court, able to act at the time, shall concur in the appointments made.

Corresponding provisions in—

Art. VI, sec. 6, constitution as proposed.

**Trial of Contested Elections.**

Section 17. The trial and determination of contested elections of electors of President and Vice-President, members of the general assembly, and of all public officers, whether state, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof; the general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters inci-

**Art. IX, Secs. 1, 2, 3, 4**

dent thereto; but no such law assigning jurisdiction, or regulating its exercise, shall apply to any contest arising out of an election held before its passage.

Corresponding provisions in—

Art. VI, sec. 11, constitution as proposed.

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**ARTICLE IX.****TAXATION AND FINANCE.****Taxes to Be Uniform.**

Section 1. All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the general assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.

Corresponding provisions in—

Art. VIII, secs. 1, 2, constitution as proposed.

**Exemption From Taxation Limited.**

Section 2. All laws exempting property from taxation, other than the property above enumerated, shall be void.

Corresponding provisions in—

Art. VIII, sec. 2, constitution as proposed.

**Taxation of Corporations.**

Section 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

Corresponding provisions in—

Art. VIII sec. 3, constitution as proposed.

**Limitation on State Debt.**

Section 4. No debt shall be created by or on behalf of the state, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the state in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed in the aggregate, at any one time, one million dollars: Provided, however, That the general assembly, irrespective of any debt, may authorize the state to issue bonds to the amount of fifty millions of dollars for the purpose of improving and rebuilding the highways of the commonwealth. (Amendment of November 4, 1918.)

Corresponding provisions in—

Art. VIII, sec. 4, constitution as proposed.

## Art. IX, Secs. 5, 6, 7, 8

**Limitation on State Loans.**

Section 5. All laws, authorizing the borrowing of money by and on behalf of the state, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for the purpose specified and no other.

Corresponding provisions in—

Art. VIII, sec. 5, constitution as proposed.

**State Credit Not To Be Pledged.**

Section 6. The credit of the commonwealth shall not be pledged or loaned to any individual, company, corporation or association, nor shall the commonwealth become a joint owner or stockholder in any company, association or corporation.

Corresponding provisions in—

Art. VIII, sec. 7, constitution as proposed.

**Municipalities Not to Become Stockholders in Corporations nor Loan Credit.**

Section 7. The general assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.

Corresponding provisions in—

Art. XIII, sec. 20, constitution as proposed.

**Debts of Municipalities.—Debt of Philadelphia.**

Section 8. The debt of any county, city, borough, township, school district, or other municipality or incorporated district, except as provided herein, and in section fifteen of this article, shall never exceed seven (7) per centum upon the assessed value of the taxable property therein, but the debt of the city of Philadelphia may be increased in such amount that the total city debt of said city shall not exceed ten (10) per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt, or increase its indebtedness to an amount exceeding two (2) per centum upon such assessed valuation of property, without the consent of the electors thereof at a public election in such manner as shall be provided by law. In ascertaining the borrowing capacity of the said city of Philadelphia, at any time, there shall be excluded from the calculation and deducted from such debt so much of the debt of said city as shall have been incurred, and the proceeds thereof invested, in any public improvements of any character which shall be yielding to the said city an annual current net revenue. The amount of such deduction shall be ascertained by capitalizing the annual net revenue from such improvement during the year immediately preceding the time of such ascertainment; and such capitalization shall be estimated by ascertaining the principal amount



**Art. IX, Secs. 9, 10, 11**

which would yield such annual, current net revenue, at the average rate of interest, and sinking fund charges payable upon the indebtedness incurred by said city for such purposes, up to the time of such ascertainment. The method of determining such amount, so to be deducted, may be prescribed by the general assembly. In incurring indebtedness for any purpose, the city of Philadelphia may issue its obligations maturing not later than fifty years from the date thereof, with provision for a sinking fund sufficient to retire said obligations at maturity, the payment to such sinking fund to be in equal or graded annual or other periodical instalments. Where any indebtedness shall be or shall have been incurred by said city of Philadelphia for the purpose of the construction or improvement of public works of any character, from which income or revenue is to be derived by said city, or for the reclamation of land to be used in the construction of wharves or docks owned or to be owned by said city, such obligations may be in an amount sufficient to provide for, and may include the amount of, the interest and sinking fund charges accruing and which may accrue thereon throughout the period of construction, and until the expiration of one year after the completion of the work for which said indebtedness shall have been incurred; and said city shall not be required to levy a tax to pay said interest and sinking fund charges as required by section ten, article nine of the constitution of Pennsylvania, until the expiration of said period of one year after the completion of said work. (Amendment of November 5, 1918.)

Corresponding provisions in—

Art. XIII, secs. 17, 18, constitution as proposed.

**Municipal Debt Not to Be Assumed by State.—Exceptions.**

Section 9. The commonwealth shall not assume the debt, or any part thereof, of any city, county, borough or township, unless such debt shall have been contracted to enable the state to repel invasion, suppress domestic insurrection, defend itself in time of war, or to assist the state in the discharge of any portion of its present indebtedness.

Corresponding provisions in—

Art. VIII, sec. 8, constitution as proposed.

**Tax to Liquidate Municipal Debts.**

Section 10. Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof within thirty years.

Corresponding provisions in—

Art. XIII, sec. 23, constitution as proposed.

**State Sinking Fund.**

Section 11. To provide for the payment of the present state debt, and any additional debt contracted as aforesaid, the general assembly shall continue and maintain the sinking fund, sufficient to pay the

## Art. IX, Secs. 12, 13, 14, 15

accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than two hundred and fifty thousand dollars; the said sinking fund shall consist of the proceeds of the sales of the public works or any part thereof, and of the income or proceeds of the sale of any stocks owned by the commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the state not required for the ordinary and current expenses of government; and unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt.

Corresponding provisions in—

Art. VIII, sec. 6, constitution as proposed.

### Surplus State Funds.—Investments.

Section 12. The moneys of the state, over and above the necessary reserve, shall be used in the payment of the debt of the state, either directly or through the sinking fund, and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the bonds of the United States or of this state.

The first part of this section is omitted as an unnecessary restriction. The provision with respect to the investment of moneys of the sinking fund is transferred to Article VIII, section 6 of the constitution as proposed.

### Reserve Funds Limited.—Monthly Statements of Reserve Funds.

Section 13. The moneys held as necessary reserve shall be limited by law to the amount required for current expenses, and shall be secured and kept as may be provided by law. Monthly statements shall be published showing the amount of such moneys, where the same are deposited, and how secured.

Corresponding provisions in—

Art. VIII, sec. 9, constitution as proposed.

### Punishment for Misuse of State Moneys.

Section 14. The making of profit out of the public moneys or using the same for any purpose not authorized by law by any officer of the state, or member or officer of the general assembly, shall be a misdemeanor and shall be punished as may be provided by law, but part of such punishment shall be disqualification to hold office for a period of not less than five years.

Corresponding provisions in—

Art. VIII, sec. 11; Art. VII, sec. 3, constitution as proposed.

### Municipal Indebtedness for Certain Public Works.

Section 15. No obligations which have been heretofore issued, or which may hereafter be issued, by any county or municipality, other than Philadelphia, to provide for the construction or acquisition of waterworks, subways, underground railways or street railways, or

## Art. X, Secs. 1, 2

the appurtenances thereof, shall be considered as a debt of a municipality, within the meaning of section eight of article nine of the constitution of Pennsylvania or of this amendment, if the net revenue derived from said property for a period of five years, either before or after the acquisition thereof, or, where the same is constructed by the county or municipality, after the completion thereof, shall have been sufficient to pay interest and sinking fund charges during said period upon said obligations, or if the said obligations shall be secured by liens upon the respective properties, and shall impose no municipal liability. Where municipalities or counties shall issue obligations to provide for the construction of property, as herein provided, said municipalities or counties may also issue obligations to provide for the interest and sinking fund charges accruing thereon until said properties shall have been completed and in operation for a period of one year; and said municipalities and counties shall not be required to levy a tax to pay said interest and sinking fund charges, as required by section ten of article nine of the constitution of Pennsylvania, until after said properties shall have been operated by said counties or municipalities during said period of one year. Any of the said municipalities or counties may incur indebtedness in excess of seven per centum, and not exceeding ten per centum, of the assessed valuation of the taxable property therein, if said increase of indebtedness shall have been assented to by three-fifths of the electors voting at a public election, in such manner as shall be provided by law. (Amendment of November 4, 1913.)

Corresponding provisions in—

Art. XIII, secs. 17, 18, constitution as proposed.

## ARTICLE X.

## EDUCATION.

## Public School System.

Section 1. The general assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this commonwealth above the age of six years may be educated, and shall appropriate at least one million dollars each year for that purpose.

Corresponding provisions in—

Art. XI, sec. 1, constitution as proposed.

## Diversion of School Moneys to Sectarian Schools.

Section 2. No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.

Corresponding provisions in—

Art. XI, sec. 4, constitution as proposed.

Art. X, Sec. 3; Art. XI, Sec. 1; Art. XII, Secs. 1, 2

### Women Eligible as School Officers.

Section 3. Women of twenty-one years of age and upwards, shall be eligible to any office of control or management under the school laws of this state.

Omitted, because its provisions are covered by the last paragraph of Article VI, section 1 as proposed, which provides that "The right to vote and to hold office shall not be denied on account of race, color or sex."

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## ARTICLE XI.

### MILITIA.

#### Militia to Be Organized.—Maintenance.—Exemption from Service.

Section 1. The freemen of this commonwealth shall be armed, organized and disciplined for its defense when and in such manner as may be directed by law. The general assembly shall provide for maintaining the militia by appropriations from the treasury of the commonwealth, and may exempt from military service persons having conscientious scruples against bearing arms.

Corresponding provisions in—

Art. III, sec. 23, constitution as proposed.

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## ARTICLE XII.

### PUBLIC OFFICERS.

#### Election of State and Local Officers.

Section 1. All officers, whose selection is not provided for in this Constitution, shall be elected or appointed as may be directed by law; provided, that elections of state officers shall be held on a general election day, and elections of local officers shall be held on a municipal election day, except when, in either case, special elections may be required to fill unexpired terms.

The provisions of this section relating to the time of electing public officers have been transferred to Article VII, section 1. So much of the section as provides: "All officers, whose selection is not provided for in this constitution, shall be elected or appointed as may be directed by law," is omitted as superfluous.

#### Incompatible Offices.

Section 2. No member of Congress from this state, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any

Art. XII, Sec. 3; Art. XIII, Sec. 1; Art. XIV, Sec. 1

office in this state to which a salary, fees or perquisites shall be attached. The general assembly may by law declare what offices are incompatible.

Corresponding provisions in—

Art. VII, sec. 2, constitution as proposed.

### Punishment for Dueling.

Section 3. Any person who shall fight a duel or send a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this state, and may be otherwise punished as shall be prescribed by law.

Omitted, because the Commission believe its provisions are wholly unnecessary.

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## ARTICLE XIII.

### NEW COUNTIES.

#### Limitation on Erection of New Counties.

Section 1. No new county shall be established which shall reduce any county to less than four hundred square miles, or to less than twenty thousand inhabitants; nor shall any county be formed of less area, or containing a less population; nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

Corresponding provisions in—

Art. XIII, sec. 4, constitution as proposed.

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## ARTICLE XIV.

### COUNTY OFFICERS.

#### County Offices.

Section 1. County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, commissioners, treasurers, surveyors, auditors or controllers, clerks of the courts, district attorneys, and such others as may from time to time be established by law; and no sheriff or treasurer shall be eligible for the term next succeeding the one for which he may be elected.

Corresponding provisions in—

Art. XIII, secs. 9, 10, constitution as proposed.

Art. XIV, Secs. 2, 3, 4, 5, 6

### **Election of County Officers.—Terms.—Vacancies.**

Section 2. County officers shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies not otherwise provided for, shall be filled in such manner as may be provided by law. (Amendment of November 2, 1909.)

Corresponding provisions in—

Art. XIII, sec. 10, constitution as proposed.

### **Qualifications.**

Section 3. No person shall be appointed to any office within any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Corresponding provisions in—

Art. XIII, sec. 13, constitution as proposed.

### **Where Offices Shall Be Kept.**

Section 4. Prothonotaries, clerks of the courts, recorders of deeds, registers of wills, county surveyors and sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

Corresponding provisions in—

Art. XIII, sec. 14, constitution as proposed.

### **Compensation of County Officers.—Fees.**

Section 5. The compensation of county officers shall be regulated by law, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive, into the treasury of the county or state, as may be directed by law. In counties containing over one hundred and fifty thousand inhabitants all county officers shall be paid by salary, and the salary of any such officer and his clerks, heretofore paid by fees, shall not exceed the aggregate amount of fees earned during his term and collected by or for him.

Corresponding provisions in—

Art. XIII, sec. 15, constitution as proposed.

### **Accountability of Municipal Officers.**

Section 6. The general assembly shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them, as for all public or municipal moneys which may be paid to them.

Corresponding provisions in—

Art. XIII, sec. 8, constitution as proposed.

Art. XIV, Sec. 7; Art. XV, Secs. 1, 2, 3

### County Commissioners and Auditors.

Section 7. Three county commissioners and three county auditors shall be elected in each county where such officers are chosen, in the year one thousand nine hundred and eleven and every fourth year thereafter; and in the election of said officers each qualified elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected; any casual vacancy in the office of county commissioners or county auditor shall be filled, by the court of common pleas of the county in which such vacancy shall occur, by the appointment on an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled. (Amendment of November 2, 1909.)

Corresponding provisions in—

Art. XIII, sec. 11, constitution as proposed.

## ARTICLE XV.

### CITIES AND CITY CHARTERS.

#### When Cities May be Chartered.

Section 1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same.

Omitted because the Commission believe that the general assembly should have the right to determine the minimum number of persons who may form a given kind of municipality, and because so much of this section as gives to the electors of a borough (the town as a municipal organization is not known to our law) the right to give or withhold their assent to having the borough become a city, has been included in the important principle expressed in Article XII, section 4, constitution as proposed: "A city or borough shall not be established \* \* \* except with the consent of a majority of the electors resident within the proposed boundaries voting on the question. \* \* \*"

#### Debts Incurred by Municipal Commissions.

Section 2. No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government.

Corresponding provisions in—

Art. XIII, sec. 19, constitution as proposed.

#### City Sinking Fund.

Section 3. Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

Corresponding provisions in—

Art. XIII, sec. 18, constitution as proposed.

Art. XVI, Secs. 1, 2, 3, 4

## ARTICLE XVI.

### PRIVATE CORPORATIONS.

#### Certain Unused Charters Void.

Section 1. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

Omitted. In 1874 when this section came in force, there were a number of charters of incorporation granted under special laws which it was important to cancel. To re-adopt the section in a new constitution would be to cancel all charters taken out under the existing general incorporation act, if the incorporators had not done business. The requirement that persons who secure a charter must, in a reasonable time, perfect their organization and begin business is amply taken care of by the Act of June 13, 1883, section 5, P. L. 123. For act applying only to banks, see Act of April 23, 1909, P. L. 143.

#### Conditions Imposed on Certain Benefits to Corporations.

Section 2. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

Corresponding provisions in—

Art. IX, sec. 11, constitution as proposed.

#### State's Right of Eminent Domain.—Police Power.

Section 3. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

Corresponding provisions in—

Art. IX, sec. 7, constitution as proposed.

#### Corporate Elections.

Section 4. In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

Corresponding provisions in—

Art. IX, sec. 5, constitution as proposed.



**Art. XVI, Secs. 5, 6, 7, 8****Foreign Corporations.**

Section 5. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

Corresponding provisions in—

Art. IX, sec. 6, constitution as proposed.

**Corporate Powers.—Real Estate.**

Section 6. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

Corresponding provisions in—

Art. IX, sec. 1.

The provisions in the present constitution that a corporation cannot hold any real estate except such as may be necessary and proper for its business has been omitted because if it only means that a corporation cannot hold any real estate for the purpose of engaging in a business not authorized by its charter, such holding is prevented by the wording of the section herein suggested. If the wording of the present constitution may be interpreted as preventing a corporation holding for its future use in its authorized business more property than it is actually using in its business at the moment, the provision is harmful, because it prevents persons carrying on business in corporate form from acting in the conduct of their business as ordinary prudent business men should act, in that it prevents them from securing sufficient real estate to anticipate what they may reasonably expect to be the needs of their business.

**Stocks and Bonds.—Increase of Indebtedness.**

Section 7. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

Corresponding provisions in—

Art. IX, sec. 2, constitution as proposed.

**Property Taken, Injured or Destroyed by Private and Municipal Corporations.**

Section 8. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall on the demand of either party be determined by a jury according to the course of the common law.

Corresponding provisions in—

Art. X, sec. 2, constitution as proposed.

Art. XVI, Secs. 9, 10, 11, 12, 13

### Banking Laws.

Section 9. Every banking law shall provide for the registry and countersigning, by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the Auditor General for the redemption of such notes or bills.

Corresponding provisions in—

Art. IX, sec. 4, constitution as proposed.

### Revocation and Alteration of Corporate Charters.—New Charters.

Section 10. The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create renew or extend the charter of more than one corporation.

Corresponding provisions in—

Art. IX, sec. 10, constitution as proposed.

### Bank Charters.

Section 11. The general assembly shall have the power by general law to provide for the incorporation of banks and trust companies and to prescribe the powers thereof.

Corresponding provisions in—

Art. IX, sec. 12, constitution as proposed.

### Regulation of Telegraph Lines.

Section 12. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines, and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

Corresponding provisions in—

Art. X, secs. 3, 7, constitution as proposed.

### Joint-Stock Companies or Associations Treated as Corporations.

Section 13. The term "corporation" as used in this article shall be construed to include all joint-stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Corresponding provisions in—

Art. IX, sec. 13, constitution as proposed.

Art. XVII, Secs. 1, 2, 3

## ARTICLE XVII.

### RAILROADS AND CANALS.

#### Railroads and Canals to be Public Highways and Common Carriers.—Connection With Other Lines.

Section 1. All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad; and shall receive and transport each the other's passengers, tonnage and cars loaded or empty, without delay or discrimination.

Corresponding provisions in—

Art. X, sec. 3, constitution as proposed.

#### Stock Transfer Office.—Books.

Section 2. Every railroad and canal corporation organized in this state shall maintain an office therein where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation, in which shall be recorded the amount of capital stock subscribed or paid in, and by whom, the names of the owners of its stock and the amounts owned by them, respectively, the transfer of said stock, and the names and places of residence of its officers.

Omitted, because the section contains only detail provisions which your Commission believe are the proper subject of statutory rather than constitutional regulation.

#### No Discrimination in Service.

Section 3. All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for, or in facilities for, transportation of freight or passengers within the state or coming from or going to any other state. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates.

Corresponding provisions in—

Art. X, sec. 5, constitution as proposed.

Art. XVII, Secs. 4, 5, 6, 7

### Consolidation Permitted.

Section 4. No railroad, canal or other corporation, or the lessees, purchasers or managers of any railroad or canal corporation, shall consolidate the stock, property or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad or canal corporation act as an officer of any railroad or canal corporation owning or having the control of a parallel or competing line; and the question whether railroads or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil cases.

Corresponding provisions in—

Art. X, sec. 7, constitution as proposed.

### Limitation of Powers.

Section 5. No incorporated company doing the business of a common carrier shall, directly or indirectly, prosecute or engage in mining or manufacturing articles for transportation over its works; nor shall such company, directly or indirectly, engage in any other business than that of common carriers, or hold or acquire lands, freehold or leasehold, directly or indirectly, except such as shall be necessary for carrying on its business; but any mining or manufacturing company may carry the products of its mines and manufactories on its railroad or canal not exceeding fifty miles in length.

Corresponding provisions in—

Art. X, sec. 8, constitution as proposed.

### Officers Not to be Interested in Contracts.

Section 6. No president, director, officer, agent or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

Omitted because it contains matter suitable for legislative action rather than for constitutional declaration.

### Discrimination and Preferences Prohibited.

Section 7. No discrimination in charges or facilities for transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise, and no railroad or canal company, or any lessee, manager or employee thereof, shall make any preferences in furnishing cars or motive power.

Corresponding provisions in—

Art. X, sec. 6, constitution as proposed.

**Art. XVII, Secs. 8, 9, 10, 11, 12****Passes Prohibited.**

Section 8. No railroad, railway or other transportation company shall grant free passes, or passes at a discount, to any person except officers or employes of the company.

Corresponding provisions in—

Art. X, sec. 9, constitution as proposed.

**Street Railways.**

Section 9. No street passenger railway shall be constructed within the limits of any city, borough or township, without the consent of its local authorities.

Corresponding provisions in—

Art. XIII, sec. 26, constitution as proposed.

**Acceptance of these Articles.**

Section 10. No railroad, canal or other transportation company, in existence at the time of the adoption of this article, shall have the benefit of any future legislation by general or special laws, except on condition of complete acceptance of all the provisions of this article.

Omitted, because this section is a repetition of the more comprehensive provisions on the same subject in Article IX, sec. 11, as proposed (Art. XVI, sec. 2 of the present constitution).

**Duties of Secretary of Internal Affairs.**

Section 11. The existing powers and duties of the auditor general in regard to railroads, canals and other transportation companies, except as to their accounts, are hereby transferred to the secretary of internal affairs, who shall have a general supervision over them, subject to such regulations and alterations as shall be provided by law; and in addition to the annual reports now required to be made, said secretary may require special reports at any time upon any subject relating to the business of said companies from any officer or officers thereof.

Omitted because the transference of powers from the auditor general's department to the secretary of internal affairs was accomplished on the adoption of the present constitution, and therefore the provision is obsolete. Also we believe that the constitution should not attempt to prescribe in detail the powers of the different executive departments of the state government. As worded, the section does not vest in the secretary of internal affairs any powers which the general assembly may not alter or abolish.

**Enforcement of This Article.**

Section 12. The general assembly shall enforce by appropriate legislation the provisions of this article.

Corresponding provisions in—

Art. X, sec. 11, constitution as proposed.

Art. XVIII, Sec. 1; Amendment of Nov. 2, 1915

## ARTICLE XVIII. FUTURE AMENDMENTS.

### How Constitution May Be Amended.

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and, if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the general assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the state in such manner, and at such time at least three months after being so agreed to by the two Houses, as the general assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

Corresponding provisions in—

Art. XIV, sec. 1, constitution as proposed.

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### AMENDMENT OF NOVEMBER 2, 1915.

Laws may be passed providing for a system of registering, transferring, insuring of and guaranteeing land titles by the state, or by the counties thereof, and for settling and determining adverse or other claims to and interest in lands the titles to which are so registered, transferred, insured and guaranteed; and for the creation and collection of indemnity funds; and for carrying the system and powers hereby provided for into effect by such existing courts as may be designated by the legislature, and by the establishment of such new courts as may be deemed necessary. In matters arising in and under the operation of such system, judicial powers, with right of appeal, may be conferred by the legislature upon county recorders and upon other officers by it designated. Such laws may provide for continuing the registering, transferring, insuring and guaranteeing such titles after the first or original registration has been perfected by the court, and provision may be made for raising the necessary funds for expenses and salaries of officers, which shall be paid out of the treasury of the several counties.

This section was added to the present constitution by the amendment of November 2, 1915. The legislature failed to designate any article or section for the amendment.

Corresponding provisions in—

Art. III, sec. 22, constitution as proposed.

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EXHIBIT E.

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• INDEX  
to the  
PROPOSED CONSTITUTION.

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## EXHIBIT E.

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